

594. Zakon o elektronskih komunikacijah (uradno prečiščeno besedilo) (ZEKom-UPB1), stran 1489.

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- Zakon o varstvu osebnih podatkov – ZVOP-1 (Uradni list RS, št. 86/04 z dne 5. 8. 2004) in
- Zakon o spremembah in dopolnitvah Zakona o elektronskih komunikacijah – ZEKom-A (Uradni list RS, št. 129/06 z dne 12. 12. 2006).

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ELECTRONIC COMMUNICATIONS ACT Official consolidated version (ZEKom-UPB1)

I. GENERAL PROVISIONS

Article 1

(content of the Act)

This Act shall govern the conditions for the provision of electronic communications networks and electronic communications services, ensuring universal service, management of the radio frequency spectrum and use of the numbering space; further, it shall lay down the conditions for restrictions on ownership rights, specify the rights of users, govern the operation of networks and services in emergency situations, govern the protection of secrecy and confidentiality of electronic communications, govern the resolution of disputes among subjects in the electronic communications market, govern the responsibilities and tasks of the Postal and Electronic Communications Agency (hereinafter: the Agency) as an independent regulatory authority, as well as the competencies of other bodies operating under this Act, and it shall govern other issues relating to electronic communications.

Article 2

(purpose of the Act)

(1) The purpose of this Act shall be establishing effective competition on the electronic communications market, maintaining the efficient use of the radio frequency spectrum and

numbering space, ensuring universal service, and protecting the rights of users. The purpose of the Act shall also be promoting the development of electronic communications networks and services in the Republic of Slovenia and thus also economic and social development in the country in general, as well as developing the internal market of the European Union and exercising the legitimate interests of all its citizens.

(2) This act shall transpose into the laws of the Republic of Slovenia the provisions of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (UL L No. 108 of 24 April 2002, p. 7), Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (UL L No. 108 of 24 April 2002, p. 21), Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (UL L No. 108 of 24 April 2002, p. 33), Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (UL L No. 108 of 24 April 2002, p. 51), Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (UL L No. 201 of 31 July 2002, p. 37), Commission Directive 2002/77/EC of 16 September 2002 on competition on the markets for electronic communications networks and services (UL L No. 249 of 17 September 2002, p. 21), and Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (UL L No. 105 of 13 April 2006, p. 54).

Article 3

(terms)

The terms used in this Act shall have the following meanings:

1. **Electronic communications equipment** shall mean those facilities associated with an electronic communications network which enable electronic communications services. They shall include, inter alia, switching and routing equipment or all types of base stations or electrical cable systems when they are used for the transmission of signals in the provision of electronic communications services, including radio and television broadcasting, cable television and cable communications, irrespective of the type of information transmitted.
2. **Electronic communications service** shall mean a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but excluding services providing or exercising editorial control over content transmitted using electronic communications networks and electronic communications services. Electronic communications service shall not include information society services whose provision does not consist wholly or mainly of the transmission of signals on an electronic communications network.
3. **Electronic mail** shall be any message in the form of text, voice, sound or image sent over a public communications network, which can be stored on the network or in the recipient's terminal equipment until the recipient collects it.
4. **Electronic communications network** shall mean transmission systems and, where applicable, switching or routing equipment and other sources which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electrical cable systems (to the extent they are used for the purpose of transmitting signals), networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

- 4a. **Numbering resources** shall be numbers and codes, names and addresses (other than Internet addresses) which are necessary for establishing communications between network termination points, except for those which are used exclusively inside an individual public communications network.
- 4b. **ENUM** is a standard using the domain name system (DNS) to record the numbers in Web addresses (URL).
- 4c. **ENUM domain number** is the Web address of a number defined with ENUM.
5. **Geographic number** shall mean a number from the numbering plan of the Republic of Slovenia referred to in Article 59 hereof, where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point.
- 5a. **ID cells** shall mean the identity of cells from which the call of a mobile telephone originates or in which it ends.
6. **Universal service provider** (hereinafter: provider) shall mean a natural person or legal entity providing universal service or parts thereof.
- 6a. **Service provider** shall mean a natural person or legal entity which provides a public communications service or has notified a competent regulatory authority of the intended provision of public communications services.
7. **Public communications service** shall mean an electronic communications service available to the general public.
8. **Public pay telephone** shall mean a telephone available to the public, the use of which is paid for by currency such as coins and/or credit or debit cards and/or pre-paid cards, including cards for use with dialling codes.
9. **Publicly available telephone service** shall mean a service available to the general public that includes originating and terminating national and international calls and access to emergency services through the numbers laid down for such services in the numbering plan, and may, where appropriate, include one or more of the following services: provision of operator assistance, provision of services providing information on subscribers (hereinafter: directory enquiry services), directories, provision of public pay phones, provision of services under special terms, provision of special facilities for users with disabilities or special social needs, or provision of services through non-geographic numbers.
10. **Public communications network** shall mean an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services.
11. **Public telephone network** shall mean an electronic communications network which is used to provide publicly available telephone services, and which supports the transfer of speech communications and other forms of communication such as facsimile and data communications between network termination points.
- 11a. **Cable ducts** are a horizontal civil engineering work consisting of ducts, pipes and the like, facilitating the setting up and maintenance of telecommunications conduits.
- 11b. **Catastrophic network failure** is a severe breakdown in an electronic communications network which cannot be eliminated in one day.
12. **Call** shall mean a connection established by means of a publicly available telephone service allowing two-way communication in real time.
13. **Emergency call** shall mean a call to an emergency number operated by bodies dealing with such calls in the Republic of Slovenia, including police, ambulance, rescue and fire services.
14. **Communication** shall mean any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service, but excluding any information conveyed as part of a broadcasting service to the public over an electronic communications network, except to the extent that such information can be related to a clearly identifiable subscriber or user receiving such information.
15. **End user** shall mean a user not operating public electronic communications networks nor providing public communications services.
16. **Local loop** shall mean the physical circuit connecting the network termination point at the subscriber's premises to the main distribution frame or equivalent facility in the fixed

public telephone network.

17. **Location data** shall mean, under this Act, any data processed in an electronic communications network indicating the geographic position of the terminal equipment of a user of a publicly available communications service.

18. **Interconnection** shall mean the physical and logical linking of public communications networks used by the same or different operators in order to allow users of one operator to communicate with users of the same or another operator, or to access services provided by another operator. Service may be provided by the parties involved or by other parties who have access to the network. Interconnection is a specific type of operator access implemented between public communications network operators.

19. **Non-geographic numbers** shall mean numbers from the numbering plan that are not geographic numbers. They include mobile, free phone, premium-rate numbers and the like.

20. **Subscriber** shall mean any natural person or legal entity which is party to a contract with a provider of publicly available communications services for the supply of such services or their provision by the provider.

20a. **Unsuccessful call attempt** shall mean a communication where a telephone call has been successfully connected but not answered, or there has been network management intervention.

21. **Facility** as part of the associated electronic communications infrastructure includes a building, section of a building, or independent premises within a building, where electronic communications equipment is installed, as well as civil engineering facility such as cable ducts, aerial masts or antennas as defined in detail in the regulation referred to in the fifth paragraph of Article 7 hereof.

21a. **Open communication networks** shall be public communication networks to which all operators may have access under the same conditions.

22. **Network termination point** shall mean the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name.

23. **Operator** shall mean a network operator or service provider.

23a. **Network operator** shall mean a natural person or legal entity which provides public communications networks or associated facilities, or has notified a competent regulatory authority of the intended provision of a public communications network or associated facilities.

24. **Access** shall mean making available facilities and/or services to another operator under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services. It shall cover inter alia: access to network elements and associated facilities, which may involve the connection of equipment by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure, including buildings, ducts and masts; access to relevant software systems, including operational support systems; access to number translation or systems offering equivalent functionality; access to fixed and mobile networks, in particular for roaming; access to conditional access systems for digital television services; and access to virtual network services.

25. **Traffic data** shall mean any data processed for the purpose of conveying a communication on an electronic communications network or for the billing thereof.

26. **Associated facilities** shall mean those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service. It shall include conditional access systems and electronic programme guides.

27. **Calling line identification presentation** shall be a function enabling the called party to identify the network termination point from which the call originates on the basis of the number or code assigned to that network termination point.

28. **Connected line identification presentation** shall be a function enabling the calling party to identify the network termination point where the call ends on the basis of the number

or code assigned to that network termination point.

29. **Consumer** shall mean any natural person using or requesting a publicly available communications service for purposes which are outside his or her business, trade or profession.

30. **Amateur service** shall be a radio communications service for the purpose of self training, intercommunication (the establishment of interconnections) and technical investigation carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.

31. **Amateur satellite service** shall be a radio communications service using space stations or Earth satellites for the same purposes as those of ordinary amateur service.

31a. **Radio frequency protection ratio** is the minimum value of the wanted-to-unwanted signal ratio at entry into a receiver under specific conditions, so that the defined quality of receipt of the wanted signal is achieved at the exit point from the receiver.

32. **Radiocommunications services** shall mean electronic communications services provided through the use of radio frequencies.

33. **Radio frequency** under this Act shall be part of the radio frequency spectrum and defined by a central frequency and the width of the radio-frequency channel, upper and lower limit frequencies of the radio-frequency channel, or a statement of individual carrier frequencies.

34. **Broadcasting** shall mean a radiocommunications service in which the transmission and distribution of radio or television programmes are intended for direct public reception by the general public, in open space without selection choice. The meaning of "programme" is defined in the Public Media Act.

34a. **Approval** is a personal consent in accordance with the act governing personal data protection.

35. **Information society service** shall mean any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services. "At a distance" shall mean that the service is provided without the two parties being present simultaneously. "By electronic means" shall mean that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and is entirely transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means. "At the individual request of a recipient of services" shall mean that the service is provided through the transmission of data upon individual request. Information society services include, in particular, the sales of goods and services, services of access to information or advertising over the Internet, and access to communications network services, transmission of data, or storage of the recipient's data on the communications network.

36. **Value-added service** shall mean any service which requires the processing of traffic data, or location data other than traffic data, beyond what is necessary for the transmission of a communication or the billing thereof.

37. **Conditional access system** shall be any technical measure and/or arrangement whereby access to a protected broadcasting service in intelligible form is made conditional upon subscription or other form of prior individual authorization.

38. **Wide-screen television service** shall mean a television service that consists wholly or mainly of programmes produced and edited to be displayed on a wide-screen television. The 16:9 format is the reference format for wide-screen television service.

39. **Number** shall mean a number or prefix as defined by recommendation E.164 of the International Telecommunication Union (ITU).

40. **Emergency call numbers** shall be the single European emergency call number "112" and all other numbers so stipulated in the numbering plan, including the police number "113".

41. **Harmful interference** shall mean interference which endangers the functioning of a radio navigation service or of other safety services, or which otherwise seriously degrades, obstructs or repeatedly interrupts radiocommunications services operating in accordance with national or Community regulations.

41a. **Telecommunications line** is a complete below- or above-ground link between two or

more points where one-way, two-way track or both-way communications are possible.

42. **User** shall mean a natural person or legal entity using or requesting a publicly available communications service.

42a. **User name** is a unique identifier assigned to persons when they apply or register for an Internet access service or Internet communication service.

43. **Controller** in this Act shall mean a natural person or legal entity, public authority, agency or any other body which alone or jointly with others determines the purposes and means of processing personal data.

44. **Application program interface (API)** shall mean a software interface between applications, made available by broadcasters or service providers, as well as resources in enhanced digital television equipment for digital television and radio service.

45. **Provision of electronic communications networks** shall mean the establishment, operation, control or making available of such networks.

46. **Lawful interception of communications** shall mean a procedure ordained pursuant to the act governing the penal procedure or to the act governing the Slovenian Intelligence and Security Agency, wherein the operator collects the contents, circumstances and facts relating to a communication at a specific point in the public communications network.

47. **Leased lines** shall mean electronic communications facilities providing the user with transparent transmission capacity between network termination points without the automatic switching and routing function which the user utilizes as part of the leased line provision.

48. **Enhanced digital television equipment** shall mean set-top boxes intended for connection to television sets, or integrated digital television sets which can receive digital interactive television services.

II. ELECTRONIC COMMUNICATIONS NETWORKS AND ELECTRONIC COMMUNICATIONS SERVICES

Article 4

(provision of electronic communications networks and services)

Any natural person or legal entity may provide electronic communications networks and/or carry out electronic communications services, subject to the conditions as set out in this Act and secondary legislation issued pursuant thereto and in accordance with other valid legislation, provided this does not endanger public order, human life and health, public security or the defence of the country.

Article 5

(notification)

(1) Prior to the commencement or alteration of the provision of public communications networks and/or public communication services, notification must be given in writing to the Agency.

(2) The operator, upon notification of the Agency, acquires the right in accordance with Article 9 of this Act to negotiate about interconnection with other operators, and where appropriate to obtain access or interconnection from them, along with the possibility to be designated as a universal service provider pursuant to Article 13 of this Act. Criteria and procedures for imposing obligations on operators result from chapters III and IV and Articles 9 and 13 thereof.(3) The notification referred to in the preceding paragraph of this Article must state all the data required by the Agency for the maintenance and supervision of official

records of operators, in particular: 1. Name, address, tax and identification numbers for natural persons; Title, principal office, tax and identification numbers, registration number and indication of legal representative for legal entities; 3. Short description of public communications networks or public communications services, including a description of typical physical and environmental characteristics of the networks or facilities and the manner of their provision; 4. Envisaged date of commencement or alteration of the provision of public communications networks or carrying out of public communications services.

(4) The operator shall notify the Agency of changes to data referred to in items 1, 2 and 3 of the preceding paragraph within 30 days after their occurrence. The operator shall notify changes to data specified under item 4 of the previous paragraph prior to the envisaged date, except in cases of force majeure, when such changes may be reported within eight days after the envisaged date. Changes to data referred to in item 4 of the previous paragraph shall be considered if the provision of public communications networks or services does not actually start on the envisaged date.

(5) Within seven days of the receipt of notification with all necessary data referred to in the third paragraph of this Article, the Agency shall enter the operator into the official records and at the same time it shall send confirmation of registration in the official records. Recording in the official records shall not constitute a condition for the exercise of rights and obligations of operators under this Act. Such confirmation shall not be an administrative act and shall not in itself create rights and obligations under this Act.

(6) Within seven days of the receipt of a notification not containing all necessary data referred to in the third paragraph of this Article, the Agency shall specifically call upon the operator to supplement the notification as necessary within an interval not shorter than eight days.

(7) Through its general act, the Agency shall prescribe more in detail the content and form of the notification referred to in the first paragraph of this Article, as well as the scope of data and evidence under the third paragraph of this Article. It shall, by general act, specify the form and content of the confirmation referred to in the fifth paragraph of this Article.

(8) The operator shall be obliged to notify the Agency in writing at least 90 days prior to the envisaged termination of the provision of public communications networks or services. In this notification, the operator must describe the means of providing permanent data storage on registration of lawful interception and storage of data on trade in electronic communications for the whole period for which such storage is to be provided in compliance with this Act, and particularly to indicate where this material will be available. In connection with the means and conditions of storage, the provisions of the Act regulating personal data protection and the Act regulating documentary material protection shall be applied.

Article 6

(fees upon notification)

(1) On the basis of the notification referred to in the first paragraph of the previous article, operators shall be obliged to pay an annual fee to the Agency. These payments shall cover the costs of implementing the provisions of this Act, other than provisions referred to in chapters V and VI hereof.

(2) The method of calculating fees pursuant to this Article shall be prescribed by the minister responsible for electronic communications (hereinafter: minister). He or she shall take into account the annual revenue of the operator arising from the provision of public communications networks and/or carrying out public communications services, but shall not be allowed to restrict competition or create barriers to market entry. Depending on the amount of the revenue as above, operators shall be ranked into four categories so that operators with the lowest revenue are in the first category and those with the highest revenue in the fourth category. The fee shall increase with the consecutive number of the category. Operators ranked in the same category shall pay equal fees.

(3) The operator must not later than 31 March of each year notify the Agency of the amount

of revenue referred to in the preceding paragraph from the preceding year. Should the operator fail to do so, the Agency shall deem the operator's entire revenue of the preceding year, as obtained on the basis of data of the Agency of the Republic of Slovenia for Public Records and Services, as the income referred to in the previous paragraph.

(4) Should the Agency suspect on reasonable grounds the truthfulness of data reported by the operator, the Agency or the authorized auditor (hereinafter: auditor) may at its discretion review the data and estimate the revenue at the operator's expense. If the estimated revenue deviates substantially from the reported revenue referred to in the second paragraph of this Article, the Agency shall take into account the estimated revenue in calculating fees.

(5) The amount of fees to be paid on the basis of this Article shall be defined by a tariff, being a general act of the Agency. In issuing the tariff, the Agency shall take into account the necessary coverage of expenses referred to in the first paragraph of this Article as regards the planned objectives and tasks specified in the action plan of action of the Agency and the balance of financial resources from the preceding year. The tariff shall include a special explanation stating the reasons for the adoption or change of the tariff, and the objectives sought. The tariff shall be published in the Official Gazette of the Republic of Slovenia (Uradni List RS) together with the explanation, and it shall enter into force after this publication.

(6) Before the tariff is issued or changed, the costs from the first paragraph of this Article must be determined and/or projected, and a deadline must be set for the liable persons referred to in the first paragraph of this Article to be called to submit their opinions, observations and suggestions regarding the issue or change of the tariff, which must not be shorter than 15 days nor longer than two months. During this period mutual interviews may be held. The tariff may be issued or changed upon the prior consent of the Government.

Article 7

(construction and operation of electronic communications networks)

(1) Electronic communications networks and associated infrastructure intended for connections to public communications networks and the provision of public communications services must be constructed and operated in accordance with the regulations on spatial planning and construction, including their essential characteristics and environmental protection, and in accordance with applicable technical regulations and standards laying down the safe operation of electronic communications networks, their integrity, operability of services, and the connection of telecommunications terminal equipment. Electronic communications networks and associated infrastructure must, where feasible in terms of technical possibilities, be constructed so as to best facilitate the common use of existing facilities.

(2) The construction of public communications networks and associated infrastructure shall be for the public benefit. The construction of other electronic communications networks and associated infrastructure on real estate owned by legal entities of public law, constructed both above and below this real estate, shall be deemed to be of public benefit.

(3) Irrespective of the fact that public communications networks are not intended for the provision of public trading service, the following work in particular on public communications networks and associated infrastructure shall be considered maintenance work for the public benefit in terms of building regulations:

1. Completion and upgrading of existing facilities or equipment of public communications networks (replacement of equipment, increasing capacity, installation of new systems/technologies, reconstruction, relocation, protection and repairs of cable networks);
2. Strengthening and replacement of existing antenna systems and their erection or lowering;
3. Replacement of existing containers and/or expansion with new containers;

4. Increasing the capacity of existing or installing new communications systems and access networks (microwave systems, optical cables, copper, interfaces, etc.);

5. Ensuring the required increase of power in the existing power supply;

Construction of required earthing or expansion of existing earthing due to replacement of a container/tower. (4) Maintenance work for the public benefit must be carried out so that facilities retain their essential characteristics in accordance with building regulations. (5) The minister shall stipulate structures and their sectoral division within the context of public communications networks and associated facilities with regard to the degree of complexity of the construction or maintenance thereof, and/or may arrange in greater detail issues arising from the implementation of this Article. (6) The inspector responsible for matters of spatial planning and construction shall supervise the implementation of provisions on the construction of public communications networks and associated infrastructure arising from this Act, as well as from secondary legislation issued on the basis thereof, and in so doing he shall cooperate and work in concerted action with the inspector responsible for electronic telecommunications (hereinafter: inspector). The inspector shall supervise the operation referred to in the first paragraph of this Article, and in so doing he shall cooperate and work in concerted action with the inspector responsible for the supervision of goods on the market. All the aforementioned inspectors shall cooperate with the Agency in the application of Article 142 hereof. (7) For the purpose of spatial planning, cable ducts shall be deemed to be used for economic public infrastructure. Thus, constructed cable ducts must be made available to all interested networks operators under the same conditions. (8) Local communities within the framework of their competences shall accelerate the construction of public communications networks. They shall conclude, in particular, easement and other agreements with operators on their infrastructure, they shall keep operators informed of intended future intervention into their existing infrastructure, and they may plan the construction of open communications networks.

Article 8

(shared use)

(1) The Agency shall encourage contractual arrangements for the shared use of property and capacities, such as cable ducts, antenna masts or towers, facilities or premises, at a joint location when a natural person or legal entity providing electronic communications networks has acquired the right to install facilities on, above or below foreign-owned real estate, or when it has instituted proceedings for expropriation or creation of easement for this real estate. (2) When operators of public communications networks are deprived of access to viable alternatives due to the need to protect the environment, public health, public security or spatial planning arrangements, and are unable to reach agreement amongst themselves concerning the shared use referred to in the preceding paragraph, the Agency shall at the request of one of the parties decide on the matter via the procedure under Article 129 hereof. In such event the Agency may order the operator of a network to enable another operator the shared use of facilities or property concerned, including a single physical location. To this end, it may determine rules for the distribution of costs of shared use of facilities or property. (3) The network operator shall exercise the right of shared use of facilities or property concerned so as to cause minimal disturbance to the owner of the immovable property, and to the least extent possible the servient estate. The network operator shall ensure protection of the environment and shall protect the quality of the natural and living environment in accordance with the regulations governing the protection of the environment and spatial planning. (4) The Agency may order joint use only on the basis of a prior public consultation, which must not last less than the period of time as defined in Article 95 hereof. Within the public consultation, all the interested parties must have

a chance to express their views.(5) The Agency cannot order shared use if this interferes with the real rights of the third party, unless the operator has instituted proceedings for expropriation or creation of easement.

Article 9

(interconnection and access)

(1) Operators of public communications networks shall have the right and obligation to negotiate amongst themselves concerning interconnection to provide public communications services with a view to ensuring and facilitating the interoperability of services if thus required by other operators of public communications networks. Public communications network operators shall provide other operators access to operators or interconnection under conditions which are in compliance with the obligations imposed by the Agency in compliance with this Act in relation to interconnection and access by operators.

(2) The parties shall agree on technical and commercial issues of access or interconnection exclusively by contract, which must not contravene provisions of this Act .

(3) In concluding interconnection or access contracts, the parties shall be obliged to protect the confidentiality of all data exchanged in the process. Such data may not be used for any other purpose or passed on to a third party, in particular to other departments, branches, subsidiaries or partners, for whom such information could provide a competitive advantage. Notwithstanding the preceding sentences, the obligations referred to in Articles 23 and 24 of this Act shall apply.

(4) In compliance with the objectives referred to in Article 120 of this Act, the Agency shall stimulate and, where appropriate, by decision provide appropriate access and interconnection as well as interoperability of services, in such a way as to promote efficiency and sustainable competition, and to provide the best benefits possible to end users. To this end, the Agency may impose in particular, on operators who supervise access to end users, obligations to the extent required for the provision of connections between both ends, including the obligation of interconnection of their networks if this has not yet been done. The preceding does not prejudice the obligations imposed on operators with significant market power in compliance with this Act.

(5) If the agreement referred to in the second paragraph of this Article is not reached, the Agency shall be responsible to decide at the request of one of the parties or ex officio by decision with mutatis mutandis application of the procedure referred to in Article 129 of this Act in order to ensure the objectives referred to in Article 120 of this Act. The Agency shall regulate by decision only those issues of interconnection or access for which no agreement between parties can be reached and which are not in contravention of this Act. The obligations and conditions in the decision must be objective, transparent, proportionate and non-discriminatory. Such decision must be issued in accordance with the procedures referred to in Articles 95 and 125 of this Act.

(6) Operators not performing services or managing networks in the Republic of Slovenia shall not be obliged to inform the Agency of the possibility to apply for access or interconnection in accordance with Article 5 of this Act.

Article 10

(operators with special or exclusive rights)

(1) Operators having special or exclusive rights to provide other commercial activities and reaching annual revenues in the area of electronic communications networks or services in excess of two (2) billion Slovenian tolar shall be obliged to provide electronic communications networks or services through legally independent companies, or to keep separate financial accounts for activities associated with the provision of electronic

communications services or networks as if these activities were performed in a legally independent company.

(2) The separate accounting records referred to in the preceding paragraph shall be kept in such a way as to define all the components of revenue and expenditure in connection with activities related to the implementation or provision of electronic communications services or networks, as well as the basis provided for their calculation and detailed distribution procedures applied, including a breakdown of fixed assets and structural costs by item.

Article 10a

(supervision)

The Agency shall supervise application of the provisions of this chapter and obligations imposed on operators on its basis, with the exception of the provisions of Article 7 of this Act.

III. UNIVERSAL SERVICE

Article 11

(universal service)

(1) Universal service shall mean the minimum set of services of specified quality which are to be available to all end users in the Republic of Slovenia at an affordable price, regardless of their geographic location.

(2) The minimum set of services constituting universal service shall include:

1. connection to the public telephone network and access to publicly available telephone services at a fixed location upon a reasonable request of the user, enabling users to make and receive local, national and international calls, facsimile communications and data communications at data rates that are sufficient to permit functional Internet access;
2. ensuring and providing access to a comprehensive directory and comprehensive services for providing information on subscribers (hereinafter: comprehensive directory enquiry service) in accordance with Article 12 hereof;
3. ensuring public pay telephones from which it is possible free of charge and without having to use any means of payment to make emergency calls, so as to meet all reasonable needs of end users in terms of geographic coverage, number of public pay telephones, accessibility for disabled users and quality of services; and
4. ensuring measures for disabled end users defined by the Government in agreement with the minister responsible for social affairs (hereinafter: minister responsible for social affairs) that enable disabled end users the same access to and use of publicly available telephone services, including access to emergency services, directories and directory enquiry services, as other end users.

(3) If the minimum set of services under preceding paragraph is altered in the legislation of the European Community, the Government of the Republic of Slovenia (hereinafter: Government) shall adopt a decree determining the altered minimum set of services.

Article 12

(comprehensive directory and comprehensive directory enquiry service)

(1) The comprehensive directory must contain at least those data from items 1 to 5 of the first paragraph of Article 110 hereof on all subscribers to publicly available telephone services who do not object to it. The comprehensive directory may be in printed or electronic format, and the Agency shall be obliged in advance to issue a decision on consent for such format.

(2) Comprehensive directory enquiry services to which all end users must have access,

including users of public pay telephones, must provide data on all subscribers included in the comprehensive directory.

(3) Data in the comprehensive directory must be updated on a regular basis or at least once a year, taking into account the method of its publication. Data provided by comprehensive directory enquiry services must be updated at least once a month. A provider of universal service providing a comprehensive directory or comprehensive directory enquiry services shall immediately notify the Agency if another operator of a publicly available telephone service fails to provide him or her data referred to in the first paragraph of this Article.

(4) Universal service providers supplying comprehensive directories or comprehensive directory enquiry services may not treat data provided to them by different providers of publicly available telephone services in a different manner.

(5) Universal service providers referred to in the preceding paragraph may not charge providers of publicly available telephone services for the publication of their data in the comprehensive directory or for the use of these data in the comprehensive directory enquiry service.

Article 13

(provision of universal service)

(1) The Agency shall determine for a period of five (5) years one or more providers of universal service so that universal service is ensured on the whole territory of the Republic of Slovenia.

(2) Notwithstanding the provisions of the preceding paragraph, the Agency may decide not to select the service provider referred to in item 3 of the second paragraph of Article 11 of this Act for the whole territory of the Republic of Slovenia or a part thereof if it establishes, based on consultation with the interested public, that this service or comparable services are available to a sufficient degree in this area.

(3) Unless otherwise provided by this section hereof, the Agency shall determine the universal service provider by decision on the basis of mutatis mutandis application of the provisions of the public tender as laid down in Section V (radio frequency spectrum) hereof. If the public tender fails, the Agency shall appoint to act as a universal service provider, by issuing a decision, that operator holding significant market power in the domain of publicly available telephone services at a fixed location, in accordance with the first paragraph of Article 19 hereof; or in the absence of such operator, the operator with the greatest number of subscribers to publicly available telephone services at a fixed location. In doing so, the Agency must take into account the principles of effectiveness, objectivity and transparency.

(4) The subject of the public tender shall be the provision of various services included under universal service, or the provision of universal service in a defined area or on the whole territory of the Republic of Slovenia.

(5) The selection criteria shall in particular be the ability to provide universal service and/or different services included in universal service in a defined area, and the costs of such provision.

(6) The Agency shall, within six months prior to the expiry of the decision referred to in the first paragraph of this Article and on the basis of data on the provision of universal service, establish whether the general availability of facilities or services included in universal service requires reappointment of a comprehensive service provider, taking into account the opinions of interested parties.

Article 14

(prices and general terms and conditions)

(1) The Agency shall monitor the development and level of retail prices of services provided as universal service.

(2) The prices of individual services provided as universal service by an individual provider must be equal throughout the territory of the Republic of Slovenia.

(3) The Agency shall, on the basis of collected data referred to in the first paragraph of this Article, decide to require an individual service provider to offer price options or packages for consumers with low incomes or special needs that differ from those otherwise provided under normal commercial terms, if it determines on the basis of the data collected that the prices from the first paragraph of this Article are too high with regard to average incomes in the Republic of Slovenia as published by the Statistical Office of the Republic of Slovenia or if they grow by more than 5 percentage points faster than the cost-of-living index from the preceding year. The Agency shall determine the method for respecting the aforementioned criteria by general act. The minister shall, in agreement with the minister responsible for social affairs, determine the categories of consumers deemed to be persons with low incomes or special needs.

(4) Universal service providers shall be obliged to fix prices and determine general terms and conditions in such a way that subscribers to specific services provided as universal service are not obliged to pay for facilities or services which are not necessary or not required for such service.

(5) By issuing a decision, the Agency may decide to order a universal service provider to provide its subscribers with one or more of the following options for monitoring expenditures:

1. itemized billing in accordance with Article 91 of this Act;

free-of-charge selective call barring for outgoing calls, to prevent certain types of calls or calls to certain types of numbers;

3. pre-payment system to pay for access to the public telephone network and the use of publicly available telephone services for consumers;

4. phased payment of connection fees to the public telephone network.

Article 15

(quality of universal service)

(1) The Agency shall lay down by general act the quality of universal service so as to determine in particular the quality parameters, the limit values thereof, and the method of measurement of such parameters.

(2) The Agency shall by general act determine the data transfer rates that are sufficient to permit functional Internet access and the time within which such rates must be achieved. In doing so, it shall take account of the prevailing access technology used by the majority of subscribers and the technological and economic feasibility. After the expiry of the time laid down in the general act, the Agency shall again verify the circumstances that led to the determination of transfer rates, and it shall lay down new transfer rates by general act where necessary.

(3) The Agency shall, in the general act referred to in the first paragraph of this Article, lay down the content, form and method of publication of data on quality of universal service.

(4) Universal service providers shall be obliged to publish up-to-date information on the quality of universal service at least once a year, and to submit data and all changes thereto

to the Agency.

(5) The Agency shall monitor the quality of universal service and may take action in accordance with the monitoring procedure.

(6) Should the Agency have reasonable doubt as regards the truthfulness of information referred to in the fourth paragraph of this Article, it may order, ex officio, an independent audit or a review similar to such audit of data on the quality of provision of universal service at the expense of the universal service provider concerned.

(7) If the measured values of quality parameters for a particular universal service provider at least three times in succession fail to achieve the limit values, the Agency may initiate a procedure for selection of a new universal service provider.

Article 16

(compensation of net costs of universal service provision)

(1) Universal service providers may apply for the compensation of net costs of the provision of universal service referred to in the second paragraph of Article 11 or third paragraph of Article 14 of this Act.

(2) Net costs of the provision of universal service shall be calculated as the difference between net costs of the chosen provider if he or she operates with obligations for universal service provision or without these obligations, wherein the benefits arising from the provision of universal service, including intangible benefits, are taken into account. The Agency shall in a general act lay down the method of calculating net costs and intangible benefits taken into account in the calculation of net costs of universal service provision. In this context, it shall take into account the defined points of departure laid down in the legislation of the European Community governing universal service.

(3) Universal service providers shall be obliged to send accounting records and information that provides a basis for the calculation of net costs of the provision of universal service to the Agency within ninety (90) days after the end of the business year. Otherwise they shall forfeit the right to claim net costs.

(4) The Agency, or an auditor authorized by the Agency, shall conduct an audit and approve the financial statements and information referred to in the preceding paragraph.

(5) The Agency shall assess whether the provision of universal service may impose an unfair burden on the universal service provider. In this case it shall calculate the net costs of providing universal service. If the universal service provider was chosen in a public tender, the Agency shall in its calculation take into account the costs of provision of the universal service offered by the provider in the public tender. The Agency shall take into account different costs only in the instance that conditions taken into account in the public tender have changed, and when the universal service provider has proved the justifiability of derogations on an objective and transparent basis. The Agency shall publish the results of cost calculation and data revision provided by the universal service provider.

(6) If the Agency on the basis of the calculation of net costs for the provision of universal service finds out that they indeed represent an unfair burden, it shall issue a decision determining the level of compensation, which may not exceed the calculated net costs.

Article 17

(financing of universal service provision)

(1) Compensation for net costs of universal service provision shall be financed from the contributions of operators operating on the territory of the Republic of Slovenia generating their revenue from the provision of public communications networks or services, or carrying out public communications services exceeding 500 million Slovenian tolar.

(2) The amount of individual operators' contributions shall be determined by the Agency on

the basis of their revenues from the provision of public communications networks or services with regard to the total revenues from the provision of public communications networks or public communications services of all operators referred to in the preceding paragraph on the territory of the Republic of Slovenia.

(3) Operators shall be obliged to pay their contributions directly to the universal service provider within the time and in the amount laid down by the decision of the Agency.

(4) Each year, operators shall by 31 March inform the Agency of their revenues in the previous year arising from the provision of public communications networks or services. If the operator fails to do so, the Agency shall take into account as revenue referred to in the second paragraph of this Article, the total revenues of the operator in the preceding year obtained on the basis of data of the Agency of the Republic of Slovenia for public and legal records and services.

(5) If the Agency has a reasonable doubt regarding the truthfulness of the information reported by the operator, the Agency or an auditor certified by the Agency may review the information and estimate the revenue, taking into account the costs of that operator. If the estimated revenue significantly deviates from the reported revenue referred to in the preceding paragraph, the Agency shall take into account the estimated revenue in the calculation.

(6) Data on compensation of net costs of universal service provision, on the method of its allocation and use, and on the parts that were financed, shall be public. For this purpose, the Agency shall publish an annual report on compensation of net costs of universal service provision, the calculated net costs, the intangible benefits taken into account in the calculation of net costs and the contributions paid.

Article 18

(monitoring)

The Agency shall monitor implementation of the provisions of this chapter and obligations imposed on universal service providers or operators.

IIIa. ADDITIONAL MANDATORY SERVICES

Article 18a

Additional mandatory services

(1) The government may by decree determine services that are, in addition to the services referred to in the second paragraph of Article 11 of this Act, publicly available on the territory of the Republic of Slovenia, as well as their quality, by taking into consideration the development of electronic communications, existing offers of public communications services on the market, the development strategy of the country as a whole and the interests of end users.

(2) If an additional service is not publicly available in certain area of the Republic of Slovenia, or is not implemented with the specified quality, a provider of additional services shall be selected for this area.

(3) Providers of additional services shall be designated by the Agency by decision on the basis of *mutatis mutandis* application of the provisions of the public tender as laid down in Chapter V of this Act and by taking into consideration the principles of effectiveness, objectivity and transparency. The subject of the tender shall be the provision of additional services in a specified area of the Republic of Slovenia. The selection criteria shall be, in particular, the ability to provide additional services and the costs of such provision.

(4) The selected provider shall be obliged to perform additional services cost-effectively and under the same conditions for all users.

(5) For the purposes of financing additional services, neither Article 17 of this Act nor any other compensation mechanism, including operators' contributions in the Republic of Slovenia, shall be applied. When applying Article 16 of this Act *mutatis mutandis*, the compensation of eventual net costs of the implementation of mandatory additional services shall be financed by the ministry competent for electronic communications.

Article 18b

(monitoring)

The Agency shall monitor implementation of the provisions referred to in this chapter and, on the basis thereof, obligations imposed on additional service providers.

IV. ENSURING COMPETITION

Article 19

(operators with significant market power)

(1) In ensuring effective competition on the electronic communications market with *ex ante* regulation, an operator shall be deemed to have significant market power under this Act if, either individually or with other operators on a particular market of public communications networks or or public communications services (hereinafter: relevant market), it holds a position equivalent to dominance, that is to say, such economic influence enabling a considerable degree of independence in respect of its competitors, users and consumers.

(2) If two or more operators are present on the market, the structure of which is considered to be conducive to coordinated effects, they may be treated as operators in a joint dominant position in terms of the first paragraph of this Article, even in the absence of structural or other links between them.

(3) Where an operator has significant market power in a relevant market, it may also be deemed to have significant market power on a market closely related to the relevant market, where the links between the two markets are such as to allow the market power held on one market to be transferred onto the other market, thereby strengthening the market power of the operator.

(4) In assessing whether an operator has significant market power in accordance with the first paragraph of this Article, the Agency shall in particular take into account the following criteria, which are not of a cumulative nature:

1. the market share of the operator on the relevant market and the variation of its market share on the relevant market over a longer period of time;
2. obstacles to entry into the relevant market and the effect on the potential competition on that market;
3. the influence of large users on the power of the operator (countervailing purchasing power);
4. elasticity of demand;
5. the phase of development of the relevant market;
6. technological advantages;
7. the development of sales and distribution networks;
8. attaining economies of scale or economies of integration;
9. the level of vertical integration;
10. the level of product differentiation;
11. the possibility of access to financial resources;
12. whether it controls infrastructure which may not be easily duplicated;
13. interconnection of services.

(5) When assessing whether two or more operators have significant market power in

accordance with the second paragraph of this Article, the Agency shall take into account in particular the following criteria, which are not of a cumulative nature:

1. the level of concentration of the relevant market, allocation of market shares on the relevant market and their change over a longer period of time;
2. obstacles to entry into the relevant market and the effect on potential competition on that market;
3. the influence of large users on the power of the operator (countervailing purchasing power);
4. transparency of the relevant market;
5. the phase of development of the relevant market;
6. homogeneity of products;
7. elasticity of demand;
8. the number of technical innovations and the development of technology;
9. the existence of available (unused) facilities;
10. eventual existence of informal or other links between these operators;
11. the retaliatory mechanisms used by these operators;
12. similar cost structures;
13. the existence of price competition.

(6) In assessing the significant market share and using the criteria referred to in the fourth and fifth paragraphs of this Article, the Agency shall be obliged to act in accordance with the legislation of the European Community and to consistently take into account the guidelines of the European Commission governing market analysis and determining significant market power in the area of electronic communications networks and services. In doing so, the Agency shall cooperate with the body responsible for the protection of competition.

Article 20

(definition of relevant markets)

(1) The Agency shall be obliged, in the domain of providing and operating electronic communications in accordance with the principles of competition law and consistently taking into account each recommendation of the European Commission regarding relevant markets for products and services in the area of electronic communications and the guidelines referred to in the sixth paragraph of the preceding Article, to determine the product, service and geographic markets relevant to the situation in the country. In doing so, the Agency shall cooperate with the body responsible for the protection of competition.

(2) If the European Commission, in the area of providing and operating electronic communications, determines a transnational market by decision, each such determination of transnational markets by the Agency must be in accordance with the decision of the European Commission.

(3) The Agency shall be obliged to issue an appropriate general act in accordance with this Article within 60 days following the issue of new recommendations or decisions of the European Commission.

(4) If the Agency in accordance with this Article issues a general act differing from the recommendations of the European Commission, it must, prior to doing so, carry out a public consultation in accordance with Article 95 and cooperation in accordance with Article 124 hereof, and to carry out a consultation with competent bodies of other Member States of the European Union and the European Commission in accordance with Article 125 hereof.

Article 21

(analysis of relevant markets)

(1) The Agency must at regular intervals and in cooperation with the body responsible for the protection of competition analyze markets referred to in the first paragraph of the preceding Article. The intervals shall not be longer than two years.

(2) In the analysis referred to in the preceding paragraph of this Article, the Agency must take into account the guidelines under the sixth paragraph of Article 19 hereof.

(3) The Agency shall jointly conduct analysis of transnational markets with the competent regulatory bodies of other Member States of the European Union as covered by such transnational markets.

Article 22

(determining, amending, maintaining or revoking obligations of operators with significant market power)

(1) Should the Agency, on the basis of a relevant market, find that the market lacks sufficient competition, it shall determine by decision the operator or operators with significant market power in that market. Prior to issuing the decision, it may obtain an opinion by the body responsible for the protection of competition.

(2) The Agency shall be obliged by the decision referred to in the preceding Article hereof to impose on operators with significant market power at least one of the obligations from Articles 23 to 30 of this Act. In doing so, the Agency shall take into account the principle of proportionality and must appropriately explain it in the decision.

(3) Should the Agency decide to impose on an operator with significant market power obligations other than those laid down in Articles 23 to 30 hereof, it may only do so on the basis of prior consent by the European Commission.

(4) Where a particular operator is again determined to be an operator with significant market power, the Agency may impose on such operator the same or other obligations repealing the previous decision.

(5) Should the Agency on the basis of the analysis of a relevant market find that there is sufficient competition on that market, it may not determine any operator as an operator with significant market power. If this market was non-competitive before, the Agency shall be obliged to abrogate by decision all prior decisions that determined operators with significant market power on that market. In such case, the Agency shall issue a decision specifying the appropriate suspension of time limit, which may not be less than 15 days, and shall publish the decision in a form taking into account the prohibition on publishing business secrets of parties.

(6) In revoking decisions pursuant to the preceding paragraph, the Agency shall also revoke all obligations imposed on operators with significant market power.

(7) The Agency shall decide on imposition, change, maintenance or revoking of obligations of operators with significant market power in transnational markets together with other competent bodies in the Member States of the European Union covered by such transnational markets.

(8) The Agency may implement any measure pursuant to this Article only on the basis of a prior consultation with the interested public as defined in Article 95 of this Act, with the body responsible for the protection of competition pursuant to Article 124 hereof, on the condition referred to in Article 125 of this Act, and eventually after consultation with other competent bodies in the Member States of the European Union and the European Commission.

Article 23

(obligation of transparency)

(1) The Agency may by the decision referred to in the preceding Article hereof instruct specific network operators with significant market power to ensure transparency with regard

to interconnection and/or access by requiring them to disclose specific information relating to interconnection and/or access, such as accounting information, technical specifications, network characteristics, terms and conditions for supply and use, and prices. The Agency shall in such decision more precisely specify the information to be disclosed, the level of detail required and the manner of disclosure.

(2) The Agency may, in accordance with the preceding paragraph, decide to require network operators from the preceding paragraph subject to the obligation from Article 24 of this Act to publish a reference offer for interconnection and/or access. Such reference offer must be sufficiently itemized so that other operators wanting a specific service relating to interconnection or access are not required to pay for facilities not necessary for the service requested. Such reference offers must describe the services offered by the network operator with significant market power in relation to interconnection and/or access broken down into components in accordance with market needs, and the conditions, including prices, relating thereto. If such reference offer does not comply with the provisions of this Act, the Agency may by decision require changes thereto.

(3) Notwithstanding the provisions of the preceding paragraph of this Article, reference offers for unbundled access to local loops must contain at least those elements as defined by the Agency in a general act prepared in accordance with the legislation of the European Community.

Article 24

(obligation to ensure equal treatment)

(1) The Agency may, by the decision referred to in Article 22 hereof, impose an obligation on a particular network operator with significant market power to ensure equal treatment in relation to interconnection or access.

(2) The imposition of the obligation referred to in the preceding paragraph shall in particular ensure that the operator referred to in the preceding paragraph:

1. provides equivalent conditions for interconnection or access in equivalent circumstances to other operators providing equivalent services; and

2. provides the same quality of services and information to other operators in relation to interconnection or access under the same conditions as they are provided for its own services, or those of its subsidiaries or partners.

Article 25

(obligation of accounting records separation)

(1) The Agency may, in accordance with the regulations governing accounting and by the decision referred to in the first paragraph of Article 22 hereof, require a specific network operator with significant market power to keep accounting records for particular activities relating to interconnection or access separated from accounting records for other activities.

(2) The Agency shall impose such obligation due to the control of compliance with the obligations referred to in the preceding Article, or where necessary to prevent unjustified cross-subsidization. It shall impose such obligation in particular on a vertically integrated operator, and may require such an operator to make transparent its wholesale and internal transfer prices. In doing so, it may also stipulate the form and methodology of account management to be applied.

(3) The network operator referred to in the first paragraph of this Article shall be obliged upon request to submit to the Agency accounting records, including data on revenue received from third parties.

(4) The Agency may publish such information with the aim of contributing to an open and

competitive market, while respecting the degree of confidentiality of the received information in accordance with national and European Community regulations on commercial confidentiality.

(5) The Agency may by general act specify in greater detail any issues arising in the implementation of this Article.

Article 26

(obligation of access to and use of specific network facilities)

(1) The Agency may by the decision referred to in the first paragraph of Article 22 hereof impose obligations on a specific network operator with significant market power to meet all reasonable requests for access to and use of specific network elements and associated facilities. The Agency shall act in such a manner in particular when it considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the establishment of a sufficiently competitive market at the retail level, or would not be in the end user's interest. In doing so, the Agency may also impose additional conditions to ensure fairness, reasonableness and timeliness of compliance with obligations.

(2) The Agency may, inter alia, require network operators referred to in the preceding paragraph in particular:

1. to provide access to specified network elements or facilities, including unbundled access to the local loop;
2. to negotiate in good faith with operators requesting access;
3. not to refuse access to facilities already granted;
4. to provide specified services on a wholesale basis for resale in the retail market;
5. to grant open access to technical interfaces, protocols or other important technologies that are indispensable for the interoperability of services or virtual network services;
6. to provide shared use (single location) or other forms of shared use of facilities, including shared use of ducts, buildings or masts;
7. to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;
8. to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;
9. to interconnect networks or network facilities.

(3) When considering whether to impose the obligations referred to in the first paragraph of this Article, and in particular when assessing whether such obligations are proportionate to the benefits sought, the Agency shall be obliged to take into account the following factors:

1. the technical and economic viability of use or installation of competing equipment with regard to the rate of market development and the nature and type of interconnection and access proposed;
2. the feasibility of providing the access proposed, in relation to the capacity available;
3. the initial investment by the facility owner, bearing in mind the risks involved in such investment;
4. the need to safeguard competition in the long term;
5. where appropriate, any relevant intellectual property rights;
6. the provision of pan-European services.

(4) The Agency may by general act specify in greater detail individual issues arising in the implementation of this Article.

Article 27

(price control and cost accounting obligations)

(1) The Agency may, by the decision referred to in the first paragraph of Article 22 hereof, impose on a specific network operator with significant market power obligations relating to cost coverage and price control, including obligations for the cost orientation of prices and obligations concerning cost accounting systems, in connection with the provision of specific types of interconnection and/or access.

(2) The Agency shall impose the obligations referred to in the preceding paragraph if, on the basis of the market analysis referred to in Article 21 of this Act, it considers that due to the lack of effective competition network operators from the preceding paragraph might sustain either too high prices or a too low difference between retail and wholesale prices, to the detriment of end users.

(3) In imposing the obligations referred to in the first paragraph of this Article, the Agency shall be obliged to take into account the investment made by the network operator from the first paragraph of this Article and allow it a reasonable rate of return on the assets invested, taking into account the risks involved.

(4) Each cost recovery mechanism or pricing methodology prescribed by the Agency must serve to promote effective and lasting competition, and to increase consumer benefits. In doing so, the Agency may also take account of prices available on comparable competitive markets and at comparable network operators.

(5) Where a network operator under the first paragraph of this Article has an obligation regarding the cost orientation of its prices, it shall be obliged to demonstrate that prices are calculated from costs including a reasonable rate of return on investment. In verifying compliance with such obligation, the Agency may use cost accounting methods independent of those used by the network operator. The Agency may by decision also require a network operator to justify its prices and, where appropriate, require the network operator to alter its prices. In this regard, the burden of proof shall lie with the network operator obliged to comply with such requirements.

(6) The Agency must ensure that, where implementation of a cost accounting system is obligatory in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. A qualified auditor shall verify compliance with the cost accounting system. A statement concerning compliance shall be published annually.

Article 28

(obligation of regulation of retail services)

(1) The Agency may, by the decision referred to in the first paragraph of Article 22 of this Act, impose on a specified operator with significant market power on a specific retail market obligations relating to regulation of retail services.

(2) The Agency may only impose such obligations under this Article if, on the basis of market analyses from Article 21 of this Act, it establishes that a relevant market intended for end users is insufficiently competitive and the obligations referred to in Articles 23 to 27 inclusive and Article 30 of this Act would not achieve the objectives laid down.

Obligations under this Article may include prohibitions on

1. charging excessive prices;
2. creation of barriers to market entry;
3. restriction of competition by setting too low prices;
4. giving undue advantages to particular end users;

5. unreasonable bundling of particular services.

(3) The Agency may, at the same time as imposing obligations pursuant to this Article, prescribe one of the following methods:

1. retail price capping;
2. regulation of individual tariffs;
3. cost oriented prices;
4. prices oriented towards those in comparable markets.

(4) In complying with obligations pursuant to this Article relating to retail tariff regulation or other relevant retail controls, the operators referred to in the first paragraph of this Article shall be obliged to use the necessary and appropriate cost accounting systems laid down by the Agency in the decision from the first paragraph of this Article. In this regard, the Agency may specify the format and accounting methodology to be used by such operators. A qualified independent auditor shall verify compliance with the cost accounting system. The Agency shall ensure that a statement concerning compliance is published annually.

(5) The Agency shall, upon request of the European Commission, provide it with information relating to obligations of retail price control and, where appropriate, to cost accounting systems used by operators referred to in the first paragraph of this Article.

Article 29

(obligation to provide minimum set of leased lines)

(1) Where the Agency determines that, as the result of the market analysis referred to in Article 21 hereof, the market for provision of the minimum set of leased lines published in the Official Journal of the European Union is not effectively competitive, it may, by the decision referred to in Article 22 hereof, impose on operators with significant market power in the area of leased lines the obligation to provide the full minimum set of leased lines or only a part thereof under non-discriminatory, cost-oriented and transparent conditions as arising from the legislation of the European Community relating to universal service provision and the rights of users in the area of electronic communications.

(2) The Agency shall lay down by general act the method for providing the minimum set of leased lines.

Article 30

(obligation to provide selection and pre-selection of public communications service providers)

(1) The Agency shall, by the decision referred to in the first paragraph of Article 22 of this Act, impose on operators with significant market power in the area of provision of telephone lines and use of the public telephone network at a fixed location, the obligation to enable their subscribers to access the services of any interconnected provider of publicly available telephone services:

1. during any call with the use of a special number of the selected operator; or

2. by the pre-selection of providers, which may be revoked during any call by means of the method from the preceding item.

(2) The Agency may, on the basis of requests by users, require from operators referred to in the first paragraph of this Article, by the decision referred to in Article 22 hereof, to provide an appropriate method of compliance with the obligation other than that laid down in the preceding paragraph.

(3) The Agency may, on the basis of requests by users, require from operators of other public communications networks with significant market power, by the decision referred to in the first paragraph of Article 22 hereof, to enable their users to select and pre-select public communications service providers. In this regard, it shall apply mutatis mutandis the first paragraph of this Article or lay down another appropriate method for compliance with such obligation. The Agency shall assess the requests of subscribers under this and preceding paragraphs in accordance with the procedure for market analysis referred to in Article 21 and with mutatis mutandis consideration of the requirements referred to in Article 26 of this Act.

(4) Operators with obligations pursuant to this Article shall be obliged to set cost-oriented prices for access and interconnection in relation to operator selection and pre-selection.

(5) Operators referred to in the preceding paragraph may charge subscribers only a justifiable amount based on a one-off cost to cover the costs of provision of operator pre-selection. Irrespective of this, such amount may not be so high as to dissuade subscribers from the use of such facilities.

(6) The Agency may by general act consider in greater detail issues relating to the implementation of this Article.

Article 31

(supervision)

Within the framework of its authorizations, the Agency shall supervise the application of the provisions hereof on competition and compliance with obligations imposed by decision on operators with significant market power.

V. RADIO FREQUENCY SPECTRUM

Article 32

(radio frequency spectrum management)

(1) The radio frequency spectrum is a limited natural resource.

(2) National bodies shall, in accordance with acts of international law applicable in the Republic of Slovenia, ensure the effective and undisturbed use of the radio frequency spectrum of the Republic of Slovenia and shall ensure the rights of the Republic of Slovenia to orbital positions.

(3) The Agency shall manage the radio frequency spectrum of the Republic of Slovenia pursuant to public authorization.

Article 33

(radio frequency band allocation plan)

(1) At the proposal of the minister, the Government shall by decree adopt a radio frequency band allocation plan, laying down radio communications services in relation to radio frequency bands, the method of using radio frequency bands and other issues relating to the use thereof.

(2) The Agency shall prepare the proposed decree under the preceding paragraph in accordance with acts of international law applicable in the Republic of Slovenia.

Article 34

(radio frequency allotment plan)

(1) The Agency shall, by general act, adopt a radio frequency allotment plan, which must be in accordance with the plan referred to in the preceding Article.

(2) Through the general act referred to in the preceding paragraph, the Agency shall define in greater detail the purpose and method of use of radio frequencies within radio frequency bands that are envisaged for individual radio communications services by the decree referred to in the preceding Article.

(3) The Agency shall adopt the general act from the first paragraph of this Article while taking into account the needs of national security and defence, protection against natural and other disasters, and the needs of air traffic safety.

(4) The Agency shall adopt the general act referred to in the first paragraph of this Article:

1. in the part relating to radio frequencies envisaged for broadcasting, in agreement with the Broadcasting Council;

2. in the part relating to radio frequencies envisaged for the needs of national security and defence and protection against natural and other disasters, in agreement with the ministry responsible for defence, the ministry responsible for internal affairs and the director of the Slovenian Intelligence and Security Agency (hereinafter: director of the Slovenian Intelligence and Security Agency);

3. in the part relating to radio frequencies envisaged for the needs of air traffic safety, in agreement with the ministry responsible for transport.

Article 35

(assignment of radio frequencies)

(1) Natural persons or legal entities may only use specific radio frequencies on the basis of a decision of the Agency granting him or her the right to use this frequency.

(2) Irrespective of the provisions of the preceding paragraph, a decision on the assignment of radio frequencies shall not be required for radio frequencies envisaged by the general act from the preceding Article for the purposes of national security and defence and protection against natural and other disasters. Such radio frequencies shall be managed and assigned by the body responsible for the planning and management of radio frequencies for the needs of state authorities.

(3) Notwithstanding the provisions of the preceding paragraph of this Article, a decision on the assignment of radio frequencies shall not be required for radio frequencies which the minister, in accordance with the radio frequency allotment plan, stipulates that they may be used without a decision on frequency assignment and prescribes the method of their use. In this regard, the minister shall be obliged to take into account the assumed international obligations arising from international agreements in force in the Republic of Slovenia and valid legislation of the European Community.

(4) The Agency shall prepare a survey of assigned radio frequencies that contains data on natural persons or legal entities that have been assigned specific radio frequencies, but that

does not contain data on radio frequencies referred to in the second paragraph of this Article. Data from the assigned radio frequencies survey shall be public. The Agency shall publish and regularly update the review of assigned radio frequencies.

Article 36

(procedure for issuing decisions on the assignment of radio frequencies)

(1) The Agency shall issue a decision on the assignment of radio frequencies in accordance with the general act on the radio frequency allotment plan according to the provisions of the act governing the general administrative procedure or pursuant to a prior public tender, as stipulated by this Act.

(2) The decision on assignment of a radio frequency shall be issued on the basis of a public tender and in cases when it is determined, following the procedure referred to in Article 38, that efficient use of specific radio frequencies can only be ensured through restriction of the number of issued decisions on the assignment of radio frequencies.

(3) Decisions on the assignment of radio frequencies for broadcasting shall be issued on the basis of a public tender without carrying out the procedure referred to in Article 38.

(4) Irrespective of the provisions of the preceding paragraph, the Agency shall always issue decisions on the assignment of radio frequencies for broadcasting referred to in the second and third paragraph of Article 50 of this Act without implementing a public tender procedure.

(5) If the assignment of specific radio frequencies to specific natural persons or legal entities has been harmonized in the European Community in accordance with international agreements and European Community regulations, the Agency shall be obliged to issue decisions on the assignment of radio frequencies to these persons. If all the conditions prescribed for the assignment of these radio frequencies by this Act have been met in the harmonized procedure for the selection of such persons, the Agency may not impose additional conditions, criteria or procedures which could restrict, alter or degrade the issue of a decision on the assignment of radio frequencies.

Article 37

(issue of decisions on the assignment of radio frequencies on the basis of general administrative procedure)

(1) In addition to constituent parts provided by the act governing general administrative procedure, an application to initiate the procedure for issuing decisions on the assignment of radio frequencies must contain the data required by the Agency for the management of official records of holders of decisions on the assignment of radio frequencies and for monitoring of the use of radio frequencies, and in particular:

1. name, address and tax number for natural persons;

2. corporate name, head office, tax and identification numbers, registration number and indication of legal representative for legal entities;

3. indication of the radio frequency to which the application refers and the intended use of such radio frequency;

4. statement of the geographic area to be covered by the radio frequency;

5. data on envisaged technical solutions, particularly data on the envisaged antenna system and radio equipment, and data required for the assessment of radiation, along with a statement of the geographic area where the radio frequency will be used and the location of

buildings, harmful interference and economy of utilization of the radio frequency.

(2) When no public tender is required, the Agency shall be obliged to issue and deliver decisions on the assignment of radio frequencies to applicants within 42 days of the receipt of such application, and at the same time to record the data on the assignment into the review of assigned radio frequencies.

(3) Notwithstanding the provisions of the preceding paragraph, the Agency shall refuse by decision to issue a decision on such assignment when it determines that:

1. applicants have failed to settle all liabilities towards the Agency;
2. the assignment of radio frequencies would not be in accordance with the acts referred to in Articles 33 and 34 of this Act;
3. assignment of the radio frequency would not be in accordance with efficient use of the radio frequency spectrum;
4. the signal of radio equipment would cause unavoidable harmful interference to other radio equipment, receivers or electrical or electronic systems.

Article 38

(obtaining opinions of interested parties)

(1) If the Agency considers that interest in a particular radio frequency could exceed the availability and thereby prevent the efficient use thereof, it shall publish a public call to obtain the opinions of interested parties concerning the conditions of use of such frequencies, particularly regarding limiting the number of holders of decisions on the assignment of radio frequencies. It shall always be obliged to publish such public calls whenever it receives an initiative for such public tender from a party with an interest in the use of specific radio frequencies.

(2) Notwithstanding the provision referred to in the preceding paragraph, the Agency is obliged to publish public calls at least once in three years.

(3) In the public call, the Agency shall set a time limit for obtaining the opinions of interested parties, which may not be shorter than 30 days, and the issues on which it wishes to obtain the opinions of interested parties. The Agency shall be obliged to maintain the level of confidentiality of eventual proposals by interested parties regarding the amount of payment for radio frequencies.

(4) If the Agency determines on the basis of the response of interested parties that specific radio frequencies will not be available to all interested parties, it shall be obliged to implement a public tender prior to issuing decisions on the assignment of radio frequencies. Otherwise the Agency shall issue decisions on the assignment of radio frequencies under the provisions of the act governing general administrative procedure.

Article 39

(implementation of provisions in the performance of public tenders)

(1) The provisions of the act governing general administrative procedure, with the exception of the provisions on exclusion, shall not apply in the public tender procedure itself.

(2) Public tenders shall be managed by a special impartial commission (hereinafter: commission) appointed by the director of the Agency (hereinafter: director), which may include persons not employed by the Agency.

Article 40

(decisions on initiation of public tenders)

- (1) Public tenders shall be initiated by decision of the Agency, which must contain at least:
 1. a precise statement of the radio frequencies subject to the public tender, the radiocommunications services to be provided through the use of such radio frequencies, and the areas or locations where such radio frequencies are to be used;
 2. conditions, requirements and qualifications to be met by tenderers, which must comply with the relevant valid legislation and spatial planning documents;
 3. criteria for the selection of the most favourable tender, the method of their application, and other possible restrictions to be taken into account in the evaluation of tenders;
 4. minimum fee for the efficient use of the limited natural resource and the method for payment thereof (i.e. one-off payment, annual), unless the public tender applies to radio frequencies for broadcasting;
 5. the time limit within which tenderers may submit tenders and the method of submission (i.e. date, time, address, code);
 6. the address, place, date and time of public opening of tenders;
 7. the place, time and contact person from whom interested parties may obtain tender documents, the price of tender documents and the method of payment for such documents;
 8. the contact person from whom tenderers can obtain additional information;
 9. the time limit within which tenderers will be informed of the tender results (time limit within which decisions will be issued).
- (2) When the subject of the public tender is the assignment of radio frequencies for the provision of broadcasting, the decision must also contain the conditions to be met by tenderers with regard to programme content and the criteria for the selection of the most favourable tender which will be taken into account in assessing programme content. The Broadcasting Council shall determine the conditions and criteria referred to in this paragraph.
- (3) When the subject of the public tender is assignment of radio frequencies for the provision of broadcasting, the Agency shall adopt a decision on the initiation of a public tender in consensus with the Broadcasting Council.
- (4) The Agency shall obtain in advance Government consent regarding the minimum fee for the efficient use of the limited natural resource and the method for payment thereof.
- (5) The Agency shall be obliged to publish any decision issued pursuant to this Article in the Official Gazette (Uradni list) of the Republic of Slovenia.
- (6) The Agency may alter the decision referred to in the preceding paragraph, thus making a decision on the prolongation of the deadline for submission of tenders in light of the extent of changes involved in the decision. All interested tenderers must be informed of any change in a non-discriminatory and transparent way. The new decision must be published in the Official Gazette of the Republic of Slovenia no later than seven days prior to the expiry of the deadline laid down for the submission of tenders referred to in the preceding paragraph.

Article 41

(time for submission of tenders)

- (1) The time period for submission of tenders must enable tenderers to prepare quality tenders and may not be less than 30 days, and shall start from the day after publication of the decision referred to in the previous Article.
- (2) Tenders shall be deemed filed in due time when submitted within the time period laid down in the public tender.
- (3) The Agency must not accept a tender, or any alteration, amendment or replacement thereof, arriving after the expiry of the time period referred to in the preceding paragraph. If such tender is sent by post, it must be returned sealed to the sender.
- (4) The Agency shall be obliged to keep secret the list of tenderers and tenders submitted until the expiry of the time period referred to in the second paragraph of this Article.

Article 42

(tender documents)

In the tender documents, the Agency shall clarify all items of the decision on initiation of the public tender and indicate which evidence on fulfilment of conditions must be attached for bids to be deemed acceptable.

Article 43

(special provisions on public opening of tenders)

(1) The opening of tenders shall be public.

(2) The tender commission shall keep minutes on the procedure of opening tenders, which must contain, in particular, data on the serial number of the tender, and if the tender is anonymous, data on the title or code of the tenderer and the tender price. Care must be taken throughout the procedure to ensure that tenderers' trade secrets are not disclosed.

(3) At the public opening of tenders, it shall be verified whether the tenders contain all documents required by the tender documentation, taking into consideration that the authenticity and contents of the documents are not verified.

(4) Only tenders delivered within the set deadline and correctly completed and marked shall be opened. Incorrectly marked tenders shall be sent sealed back to the sender by the tender commission.

(5) The public tender shall succeed if at least one timely and correct tender meeting the conditions is received.

(6) In the decision on initiation of a public tender, the Agency may stipulate that an individual public tender shall be deemed successful if a different minimum number of tenders meeting the conditions is received.

Article 44

(review and evaluation of tenders)

(1) After completion of the public opening of tenders, the commission shall first determine whether all tender documents meet the requirements of the law and tender documentation. Should the commission find that a certain tender is not in accordance with the law and the tender documentation, it shall exclude the tender from the further procedure. The commission shall evaluate the remaining tenders in accordance with tender criteria.

(2) After reviewing and evaluating the received tenders, the commission shall compile a report presenting the evaluation of individual tenders and state which tender best meets the published selection criteria.

(3) When the subject of the public tender is the assignment of radio frequencies for the provision of broadcasting, the commission shall send the completed tenders and the report on their evaluation in accordance with the tender's selection criteria, but not including the evaluation of tenders with regard to programme content, to the Broadcasting Council. The Broadcasting Council shall evaluate the tenders received with regard to their programme content in accordance with the criteria laid down in the resolution on the initiation of the public tender and shall, on the basis of a joint evaluation of all selection criteria, submit to the Agency its substantiated proposal for the selection. The Broadcasting Council shall be obliged to send the substantiated proposal to the Agency not later than within 60 days of receipt of the tenders and the report.

(4) The commission or Broadcasting Council may require from tenderers to clarify their tenders, but in doing so they may not request, permit or offer any alterations or amendments to the contents of the tender.

(5) The commission or Broadcasting Council shall be obliged in reviewing and evaluating offers to take into account only those criteria for the selection of the most favourable tenderer as laid down by law and the tender documentation, in particular the efficiency or use of the radio frequency spectrum and the promotion and safeguarding of competition.

Article 45

(application of the provisions of the Act governing the general administrative procedure)

Upon receipt of the report by the commission regarding the evaluation of tenders, or the substantiated proposal of the Broadcasting Council if the subject of the public tender is the assignment of radio frequencies for the provision of broadcasting, the Agency shall continue decision making under the act governing general administrative procedure, whereby each tenderer who submitted a properly marked tender within the time limit as laid down in the public tender has the status of a party.

Article 45a

(limitation of evidence)

In the administrative procedure initiated after the public tender, it is not admissible to propose or provide evidence which should form an integral part of the complete and appropriate tender or which would modify the tender in any way.

Article 46

(selection of tenderers)

The Agency shall decide on tenders by issuing one or more decisions on the assignment of radio frequencies. The Agency shall be obliged to issue and deliver decisions within no more than eight months from the expiry of the period for submission of tenders, and at the same time to inform the public of its decision.

Article 47

(suspension of procedure)

The Agency may suspend the procedure for issuing or altering decisions on the assignment of radio frequencies if additional harmonization, investigation or activity is required in accordance with acts of international law applicable in the Republic of Slovenia.

Article 48

(content of the decision on the assignment of radio frequencies)

(1) The decision on the assignment of radio frequencies shall, in addition to the content envisaged by the act governing general administrative procedure, contain, in particular:

1. data on the holder of the right to use radio frequencies;
2. radio frequencies assigned;
3. area of coverage;
4. period of validity of the decision on the assignment of radio frequencies;
5. conditions to be met in the use of radio frequencies.

(2) The conditions referred to in item 5 of the preceding paragraph must also include the

conditions referring to item 5 and item 7 of Article 49 of this Act in the decision on the assignment of radio frequencies issued on the basis of a public tender.

(3) When the subject of decision shall be the assignment of radio frequencies for the provision of broadcasting, the decision shall also contain the name of the programme and the conditions and requirements regarding programme content which must be met in using the radio frequencies.

(4) Holders of rights to use radio frequencies shall be obliged to report any changes to the data referred to in the first item of the first paragraph of this Article, or any change of the name of the programme from the preceding paragraph, to the Agency within 30 days from the occurrence thereof.

Article 49

(conditions for the use of radio frequencies)

The conditions referred to in item 5 of the first paragraph of the preceding Article may only apply to:

1. electronic communications services or types of electronic communications networks for which the assigned radio frequencies may be used;
2. ensuring the efficient use of radio frequencies, including requirements regarding coverage where appropriate;
3. technical and operational conditions necessary for the prevention of harmful interference and limitation of public exposure to electromagnetic fields, if such conditions differ from those included in the general authorization;
4. duration of the right to use radio frequencies;
5. transfer of ownership of rights to use radio frequencies and the conditions for such transfer;
6. payments in accordance with Article 56 hereof;
7. additional obligations undertaken by the selected tenderer during participation in the public tender (for example, regarding the rate of construction of the electronic communications network, programme content and the like);
8. obligations regarding acts of international law applicable in the Republic of Slovenia relating to radio frequencies.

Article 50

(duration of validity of decisions on assignment of radio frequencies)

(1) The Agency shall issue decisions on the assignment of radio frequencies for a fixed period of time not longer than 15 years, except for the assignment of radio frequencies intended for aeronautical and maritime mobile services.

(2) The Agency shall issue decisions on the assignment of radio frequencies intended for carrying out measurement, attestation and other testing of radio equipment for a restricted area of coverage and for no more than 90 days.

(3) The Agency shall as a rule issue decisions on the assignment of radio frequencies intended for entertainment for no more than 15 days or the otherwise envisaged duration of the event.

Article 51

(extension of decisions on the assignment of radio frequencies)

(1) The validity of a decision on the assignment of radio frequencies may be extended on the proposal of the holder thereof, if all conditions for the use of those radio frequencies as set

out are met at the end of its expiry.

(2) Applications for the extension of decisions on the assignment of radio frequencies must be submitted to the Agency no less than thirty (30) and no more than ninety (90) days prior to the expiry of the validity of the decision on the assignment of radio frequencies.

(3) In the event of extension, the Agency shall issue a new decision on the assignment of radio frequencies.

(4) The validity of decisions on the assignment of radio frequencies intended for the purposes of measurement, attestation and other tests of radio equipment, as well as decisions on the assignment of radio frequencies intended for entertainment, may not be extended.

Article 52

(transfer of rights to use radio frequencies)

(1) The holder of a decision on the assignment of radio frequencies may transfer by legal transaction his right to use these radio frequencies to another natural person or legal entity meeting the prescribed conditions, but only with the prior consent of the Agency, which shall verify that such other natural person or legal entity meets the conditions laid down by law, secondary legislation or act of the Agency.

(2) The designated use of radio frequencies brought in line with European Community regulations shall not be changed with the transfer of rights to use radio frequencies.

(3) The conditions referred to in Article 49 hereof contained in a decision on the assignment of radio frequencies laid down in the call for tenders may change only with the prior consent of the Agency.

Article 53

(amendment of a decision on the assignment of radio frequencies)

(1) The Agency may, ex officio, amend a decision on the assignment of radio frequencies if:

1. the allocation of radio frequency bands or use of radio frequencies changes;
2. there is a public demand that cannot otherwise be met;
3. it is required for the efficient use of the radio frequency spectrum for the public benefit;
4. harmful interference cannot otherwise be avoided or radio frequency protection is not achieved;
5. it is so required by acts of international law applicable in the Republic of Slovenia;
6. the name of holders of decisions on the assignment of radio frequencies or the name of the programme changes;
7. this is required in order to link holders of decisions on the assignment of radio frequencies to form wider regional or national radio or television programming networks registered with the competent body in compliance with the Act regulating media.

(2) In cases referred to in the preceding paragraph, the Agency shall issue a new decision on the assignment of radio frequencies, in which it may also lay down the extent of and deadline for adjustment.

(3) By the decision referred to in the preceding paragraph, the Agency may exceptionally extend the validity of a decision on the assignment of radio frequencies if the costs of adjustment from the preceding paragraph encroach disproportionately upon the benefits held by the holder of the decision on the assignment of radio frequencies.

(4) In cases referred to in the first paragraph of this Article, the Agency may fully revoke the decision on the assignment of radio frequencies, replacing it with a new decision and laying down new content.

(5) The holder of amended or revoked decisions on the assignment of radio frequencies shall have the right to the assignment of other equivalent radio frequencies if the reasons for the

amendment or revocation arose through no fault of his own. Radio frequencies with equivalent coverage shall be assigned by decision under an administrative procedure without a public tender.

(6) The holder of amended or revoked decisions on the assignment of radio frequencies for the provision of broadcasting referred to in the preceding paragraph shall have the right to the assignment of additional radio frequencies in the area covered under the decision, which may be altered if services of the expected quality cannot be performed in equivalent radio frequencies. Additional radio frequencies shall be assigned by decision under an administrative procedure without a public tender.

(7) Holders of decisions referred to in the preceding paragraph for additional radio frequencies shall not be obliged to pay an annual fee to the Agency for the use of the assigned radio frequencies.

(8) Amendment to a decision on the assignment of radio frequencies at the proposal of its holder shall only be possible within the framework of the area covered under that decision, in a manner not to encroach upon the rights of others, and under the conditions of this Act. In case of amendment to a decision on the assignment of radio frequencies for the provision of broadcasting, amendment is also possible outside the area of coverage, if such amendment to the decision on the assignment of radio frequencies provides for greater efficiency in the use of radio frequencies and if such amendment does not interfere with the benefits of other holders of decisions on the assignment of radio frequencies.

Article 54

(revocation of decisions on the assignment of radio frequencies)

(1) The Agency may revoke a decision on the assignment of radio frequencies either at the proposal of the holder of the decision on the assignment of radio frequencies or ex officio.

(2) At the proposal of the holder of the decision on the assignment of radio frequencies, the Agency shall revoke the decision on the assignment of radio frequencies only in the event that such holder meets all obligations laid down pursuant to valid legislation and pursuant to the decision on the assignment of radio frequencies.

(3) The Agency shall be obliged to initiate ex officio the procedure for revocation of a decision on the assignment of radio frequencies for the provision of broadcasting if this is proposed by the Broadcasting Council.

(4) The Agency shall revoke a decision on the assignment of radio frequencies ex officio if it determines that:

1. the application for the decision on the assignment of radio frequencies contained false data;
2. the holder no longer meets the prescribed conditions laid down pursuant to valid legislation or to its decision on the assignment of radio frequencies;
3. the holder fails to start utilizing the radio frequency within one year upon issuance of the decision on the assignment of radio frequencies, or the assigned radio frequency was not used for a period of one year during at least six random verifications over a period of at least two days, unless otherwise provided by decision or if holders prove the contrary by submitting written evidence;
4. it is not otherwise possible to avoid harmful interference caused by the signal of radio equipment to other radio equipment, receivers or electrical or electronic systems.

(5) The Agency shall also revoke a decision on the assignment of radio frequencies ex officio:

1. if fees for the use of radio frequencies or the fee for the efficient use of a limited natural resource were not paid despite a warning; or

2. in the event of other irregularities in meeting the conditions for the use of radio frequencies referred to in Article 49 of this Act that were quoted in the decision on the assignment of

radio frequencies, if these irregularities were not eliminated with measures taken in the supervision procedure.

Article 55

(cessation of decisions on the assignment of radio frequencies)

(1) Decisions on the assignment of radio frequencies shall, pursuant to the Act itself, cease:

1. upon the expiry of the time for which they were issued;
2. if their holders cease to exist;
3. by revoking a licence to perform radio and television activities issued according to the procedure and under the conditions laid down in the Act governing the media.

(2) In cases referred to in items 2 and 3 of the preceding paragraph, the Agency shall issue a declaratory decision.

Article 56

(payment for the use of radio frequencies)

(1) An annual fee shall be paid to the Agency for the use of assigned radio frequencies by holders of decisions on the assignment of radio frequencies. The payments shall cover the expenses of the Agency stemming from management and monitoring of the radio frequency spectrum.

(2) The minister shall prescribe the method of calculating fees on the basis of this Article. Such calculation shall depend on the coverage or population density in the area of coverage, or radio frequency or width of the radio frequency band or type of radio communication, or any combination thereof, but it may not distort competition or create barriers to market entry.

(3) The Agency shall determine the level of payment pursuant to the first and second paragraphs of this Article with a tariff, taking into account the necessary coverage of costs referred to in the first paragraph of this Article and applying mutatis mutandis the fifth and sixth paragraphs of Article 6 hereof.

(4) A certain fee for the efficient use of a limited natural resource ensuring the optimal use of the assigned radio frequencies shall be paid for radio frequencies assigned pursuant to a public tender, except for radio frequencies for broadcasting. These fees shall create revenue for the national budget. The minimum amount of such fees and the method of their payment shall be laid down in the decision on the initiation of the public tender procedure. In determining the level or minimum amount of fees and of the method of payment thereof, account shall be taken of the supply and demand for tendered frequencies, the development of the market to which the frequencies apply, and the level of such payments in other European Union Member States, but the amount may in no case be so high as to hinder the development of innovative services and market competition.

(5) Notwithstanding the first and second paragraphs of this Article, fees shall not be paid to the Agency for the use of radio frequencies which, pursuant to the plan from Article 34 of this Act, are envisaged for amateur radio and amateur radio satellite service.

Article 56a

(radio frequencies for digital broadcasting)

The provisions of item 1 of the fourth paragraph of Article 34, the third paragraph of Article 36, the second and third paragraphs of Article 40, the third paragraph of Article 44 and the second paragraph of Article 54 of this Act shall not be used for radio frequencies envisaged for the provision of digital broadcasting.

Article 57

(supervision and construction of control and measurement system)

(1) The Agency shall supervise the implementation of provisions of this chapter and fulfilment of decisions issued on its basis.

(2) The Agency shall set up and construct the control and measurement system of the Republic of Slovenia for the purposes of managing and monitoring the radio frequency spectrum.

(3) The construction provided for in the preceding paragraph shall be for the public benefit.

VI. NUMBERING

Article 58

(objectives and management)

(1) The Agency shall, pursuant to public authorization, manage the set of all numbering resources used in the Republic of Slovenia with a view to providing their efficient structuring and use, as well as satisfying the needs of operators and other natural persons and legal entities eligible to acquire a decision on the assignment of numbering resources under this Act in a fair and non-discriminatory manner.

(2) The Agency shall keep all data relating to the management of numbering resources.

(3) The Agency shall publish on its website the data on assigned numbers or number blocks as follows:

1. numbers or number blocks;
2. holders of numbers or number blocks.

Article 59

(numbering plan)

(1) The Agency shall by general act lay down a numbering plan.

(2) The numbering plan shall lay down the type, length and structure, as well as purpose and method of use, of numbering resources, including numbers for emergency calls whose application complies with the regulations of the European Community; however, it must also facilitate number portability and the introduction of new electronic communications services.

(3) The application of amendments or supplements to the numbering plan which essentially interfere with the numbering system and whose implementation is technologically demanding shall start only two years following their introduction.

Article 60

(use of numbering resources)

The operators and natural persons or legal entities referred to in the first paragraph of Article 62 hereof may use numbering resources only pursuant to decisions on the assignment of numbering resources, on the basis of which the Agency shall grant the right to the use thereof.

Article 61

(procedure for issuing decisions on the assignment of numbering resources)

(1) The Agency shall issue decisions on the assignment of numbering resources in accordance with the numbering plan under the provisions of the act governing general administrative procedure and pursuant to prior implementation of a public tender in cases stipulated by this Act. In assigning numbering resources managed by the International Telecommunication Union (ITU), the Agency shall also consider the procedures as provided for in appropriate recommendations of this union. In assigning numbers whose application is brought in line with the regulations of the European Community, the Agency shall also consider the procedures provided for in the regulations and recommendations of the European Union.

(2) The Agency shall only use public tender procedures where, by applying *mutatis mutandis* the procedure referred to in Article 36, it finds that the efficient use of specific numbering resources (e.g. short numbers) can only be ensured by limiting the number of issued decisions on the assignment of numbering resources. Only those operators which can assign numbering resources so obtained to their users under equal, cost-oriented and transparent conditions may participate in the public tender procedure as tenderers.

(3) The Agency shall in such public tender procedures apply, *mutatis mutandis*, the provisions of the public tender implemented pursuant to this Act for the assignment of specific radio frequencies.

(4) The Agency shall decide on tenders by issuing one or more decisions on the assignment of numbering resources, which in such cases must be issued and delivered within a time period of 42 days from the expiry of the time period for submission of tenders, and at the same time to inform the public of its decision.

Article 62

(issuing decisions on the assignment of numbering resources on the basis of the general administrative procedure)

(1) The application to obtain decisions on the assignment of numbering resources may only be submitted by operators, whereas other natural persons or legal entities may do so only if they provide evidence that they need the numbering resources to perform activities in the public interest as arising from sectoral legislation or regulations of the European Community.

(2) The applications referred to in the preceding paragraph must contain data required by the Agency to maintain official records of holders of decisions on the assignment of numbering resources and to supervise the use of numbering resources, in particular:

1. name, address and tax number for natural persons;
2. title, head office, tax and identification numbers, registration number and statement of the lawful representative for legal entities;
3. evidence that the applicant is eligible for assignment of numbering resources;
4. data on the type, quantity and designated use of numbers applied for;
5. a project containing a need assessment plan for the following three years, if the applicant requests a large block of numbers,

6. along with argumentation proving the applicant will use the assigned quantity of numbering resources within three years.

(3) The Agency may by general act prescribe in greater detail the content and format of the application and the type of evidence to be attached to this application.

(4) The Agency shall by general act lay down the size of the block of numbers referred to in item 5 of the second paragraph of this Article.

(5) When no public tender is required, the Agency shall issue and deliver decisions on the assignment of numbering resources within 21 days of initiation of the procedure for the acquisition of numbers.

(6) Irrespective of the the provisions of the preceding paragraph, the Agency shall decide to refuse to issue decisions on the assignment of numbering resources if it determines that:

1. the applicant is not eligible for the assignment of numbering resources pursuant to applicable legislation;

2. the applicant has not settled all outstanding liabilities towards the Agency;

3. the intended use does not justify the assignment of the requested quantity or type of numbering resources;

4. the assignment of numbering resources would contravene applicable legislation.

(7) Operators may assign the assigned numbers to end users of their services in accordance with decisions on the assignment of numbering resources and applicable legislation.

On the basis of a legal transaction, they may assign them for use to contractors of services against payment where only the actual costs may be charged. Operators shall not make any differences among contractors of services with regard to the blocks of numbers being used for access to their services. They must send all data on such legal transactions to the Agency.

Article 63

(content of decisions on the assignment of numbering resources)

(1) Decisions on the assignment of numbering resources must contain at least:

1. data on the holder of the right to use numbering resources;

2. assigned numbering resources;

3. conditions for the use of numbering resources referred to in Article 64 of this Act.

(2) The holder of the right to use numbering resources must inform the Agency of changes to the data referred to in item 1 of the preceding paragraph within 30 days of their occurrence.

Article 64

(conditions for the use of numbering resources)

The conditions under item 3 of the first paragraph of the preceding Article may only refer to:

1. designation of the service for which the assigned resource or numbering resource shall be used, including any requirements linked to the provision of that service;
2. ensuring actual and efficient use of numbering resources;
3. transfer of numbers;
4. obligation to provide information on subscribers, required in public directories in accordance with Articles 12 and 89;
5. validity period of decisions on the assignment of numbering resources, subject to any changes in the numbering plan;
6. 6. transfer of rights to use numbering resources and the conditions for such transfer;
7. payment of fees for the use of assigned numbering resources in accordance with Article 70 hereof;
8. obligations undertaken by holders of decisions on the assignment of numbering resources in the public tender procedure;
9. obligations from acts of international law applicable in the Republic of Slovenia relating to numbering resources and the use thereof.

Article 65

(validity period of decisions on the assignment of numbering resources)

The Agency shall issue decisions on the assignment of numbering resources for an indefinite time.

Article 66

(transfer of the right to use numbering resources)

(1) Holders of decisions on the assignment of numbering resources may transfer by legal transaction their right to use these numbering resources to another natural person or legal entity meeting the prescribed conditions, but only with the prior consent of the Agency, which shall verify whether this other natural person or legal entity meets the conditions laid down by law, implementing regulations or act of the Agency.

(2) The designated use of numbers which are brought in line with European Community regulations shall not be changed with the transfer of rights referred to in the preceding paragraph.

Article 67

(change of decisions on the assignment of numbering resources)

(1) The Agency may, due to harmonization with amendments or supplements to the plan in accordance with the third paragraph of Article 59 hereof, amend ex officio the already issued decisions on the assignment of numbering resources within 30 days of the date of introduction of amendments or supplements to the plan. In such case, holders of decisions

on the assignment of numbering resources or users to whom such numbering resources were assigned shall not have the right to claim compensation.

(2) The Agency may also amend decisions on the assignment of numbering resources at the suggestion of the holders thereof.

Article 68

(revocation of decisions on the assignment of numbering resources)

(1) The Agency shall ex officio revoke decisions on the assignment of numbering resources if it determines that:

1. the application for the assignment of numbering resources contained false data;
2. the holder no longer meets the conditions laid down pursuant to valid legislation and decisions on the assignment of numbering resources;
3. the assigned numbering resources have not started to be used or have not been used for more than one year in three years after the issue of a decision on the assignment of numbering resources.

(2) The Agency shall also revoke decisions on the assignment of numbering resources ex officio:

1. if fees for the use of numbering resources or the fee for the efficient use of a limited natural resource were not paid despite a warning; or

2. in the case of other irregularities in satisfying conditions for the use of numbering resources referred to in Article 64 of this Act contained in the decision on the assignment of numbering resources, if these irregularities were not eliminated with more lenient measures in control procedures.

Article 69

(termination of decisions on the assignment of numbering resources)

(1) Decisions on the assignment of numbering resources shall expire:

1. at the proposal of the holder of a decision on the assignment of numbering resources;
2. if the holder of a decision on the assignment of numbers ceases to exist; or
3. by virtue of revocation of decisions on the assignment of numbering resources.

(2) In cases referred to in items 2 and 3 of the preceding paragraph, the Agency shall issue a declaratory decision.

Article 70

(payments for use of numbering resources)

(1) Holders of decisions on the assignment of numbers shall be obliged to pay an annual fee to the Agency for the use of the assigned numbering resources. Such fees shall cover the costs of the Agency regarding the management and monitoring of the numbering resources.

(2) The Minister shall prescribe the method of calculating the fee to be paid to the Agency pursuant to this Article. The level of the fee shall depend on the quantity, length and type of numbering resources, but it shall not hinder competition or hamper market entry.

(3) The Agency shall determine the level of payments pursuant to the first and second paragraphs of this Article with a tariff, taking into account the necessary coverage of costs

referred to in the first paragraph of this Article and mutatis mutandis application of the fifth and sixth paragraphs of Article 6 hereof.

(4) In spite of the provisions under the first paragraph, the operator will not be obliged to pay the Agency for the use of numbers transferred to another operator. The person liable for the payment for such numbers to the Agency shall be the operator to whom these numbers were transferred. The Agency shall take into consideration the data transferred by the operator in accordance with the eighth paragraph of Article 71.

(5) Numbering resources assigned under a public tender may require the payment of a specific fee for the efficient use of a limited natural resource to ensure the optimal use of assigned numbering resources. Such fees shall create revenue for the national budget. In such case the minimum amount of such fees and the manner of their payment shall be determined in the decision on initiation of the public tender procedure. In decisions on such tender criteria as the minimum amount of fees and the manner of payment thereof, account shall be taken of the supply and demand for the tendered numbering resources, the development level of the market to which the tendered numbering resources apply, and the level of such payments in other states of the European Union; however, it shall under no circumstances be so high as to hinder the development of innovative services and market competition.

Article 71

(portability of numbers)

(1) All operators of public telephone networks or providers of publicly available telephone services shall enable their subscribers to publicly available telephone services, including mobile services, to retain their number or numbers when changing operators in the following cases:

1. in geographic numbers at a specific location;
2. in non-geographic numbers at any location.

(2) Notwithstanding the provisions under the preceding paragraph, number portability may not be required between networks providing services at fixed locations to mobile networks or vice versa.

(3) Operators may, for the porting of numbers to another operator, only charge subscribers with a one-off payment covering the costs of porting the number; however, such sum shall not be so high as to deter the subscriber from using such facility.

(4) The prices of interconnection in relation to providing number portability must be cost-oriented.

(5) Operators shall be bound to bear the costs of adapting their networks so as to enable number portability and maintenance costs for such facilities. The operator of the network in which a call was generated shall cover the costs in accordance with the network interconnection contract to the operator of the network where the call to the ported number is terminated.

(6) The Agency shall not impose retail prices for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail prices.

(7) The Agency shall by general act regulate in greater detail the manner of implementation of number portability and the technical and other requirements in order to comply with the provisions of this Article.

(8) The operator shall, by 15 January, send to the Agency the list of all numbers ported to other operators in the preceding year and the list of all numbers ported to it in the preceding year.

Article 72

(emergency call numbers)

(1) Operators of public telephone networks or providers of publicly available telephone services must ensure that users of publicly available telephone services, including users of public pay telephones, have free-of-charge access to emergency call numbers.

(2) Operators of public telephone networks must immediately and free of charge send information about the number in relation to any call to the single European emergency call number "112" and police call number "113" to the authority dealing with such calls. For the purposes of the emergency call number "112", operators must send information on the location of the caller along with information on the number of the caller. For the purposes of the police call number "113", operators must, upon request, send data on the location of the caller immediately and free of charge. Operators shall send all data to the extent technically possible. Operators shall bear the burden of proving the extent of technical inability.

(3) The minister shall, in agreement with the minister responsible for protection and disaster relief, prescribe the quality of service for the single European emergency call number "112" so as to determine in particular the quality parameters, their limit values and methods for measuring these parameters.

Article 72a

(European telephony numbering space)

Without prejudice to the right to reimbursement of the cost of conveyance of calls in the own network, operators of public telephone networks shall handle all calls into the European telephony numbering space.

Article 73

(non-geographic numbers)

(1) Operators of public telephone networks or providers of publicly available telephone services shall be obliged to ensure that users from other European Union Member States may call non-geographic numbers designated in the numbering plan where technically and economically feasible.

(2) Operators of public telephone networks or providers of publicly available telephone services shall not be liable to comply with the obligation under the preceding paragraph when a called subscriber has chosen, for commercial reasons, to limit calls originating from specific areas of the European Union.

Article 73a

(ENUM domain numbers)

- (1) The Agency shall make the conversion of numbers into ENUM domain numbers.
- (2) The Agency shall by general act regulate in greater detail the manner of making the conversion into ENUM domain numbers and the method of database management, as well as set technical and other requirements related to the conversion of numbers as are necessary for implementation of this Article.

Article 74

(supervision)

The Agency shall supervise implementation of the provisions of this chapter and fulfilment of decisions issued on its basis.

VII. EXPROPRIATION AND RESTRICTION OF OWNERSHIP RIGHTS

Article 75

(withdrawal or restriction of ownership or other real rights in cases of building public communications networks)

- (1) The construction, installation, operation or maintenance of public communications networks and associated infrastructure in accordance with regulations shall be for the public benefit.
- (2) Public communications networks must be planned so as to minimize the encroachment on foreign property.
- (3) Ownership or other real rights to real estate may be withdrawn or restricted for the public benefit when required due to the construction, installation, operation or maintenance of public communications networks and associated infrastructure.
- (4) Ownership or other real rights to real estate shall be withdrawn or restricted under the procedure and in the manner as laid down by the act governing the expropriation of real estate and the act governing real rights, unless otherwise stipulated by this Act.
- (5) Operators of networks wishing to execute works on, above or beneath foreign real estate as referred to in the first paragraph of this Article may act in the expropriation procedure as the eligible expropriatee, or in the procedure of creation of easement as the person entitled to easement.
- (6) It is understood that deciding in the procedure of expropriation or creation of easement for the benefit of network operators is a matter of urgency within the meaning of the act governing the expropriation of real estate and restriction of ownership rights. In deciding such matters, the administrative body responsible for decision making on the basis of the act governing the expropriation of real estate and restriction of ownership rights must, in particular, explain and justify its decisions even when use of the urgency procedure is not decided on.

Article 76

(creation of an easement on real estate owned by entities of public law when building electronic communications networks that are not public communications networks)

- (1) The building, installation, operation or maintenance of electronic communications networks which are not public communications networks and their associated infrastructure on real estate owned by entities of public law in accordance with regulations shall be for the public benefit.
- (2) Electronic communications networks referred to in the preceding paragraph must be planned so as to minimize encroachment on the property of entities of public law.

(3) Ownership or other real rights to real estate owned by entities of public law may be burdened with easement for the benefit of legal entities and natural persons providing electronic communications networks that are not public communications networks, when necessary in order to build, install, operate and maintain the networks and associated infrastructure.

(4) In the cases referred to the preceding paragraph, ownership or other real rights to real estate owned by entities of public law shall be encumbered by easement under the procedure and in the manner as laid down by the act governing the expropriation of real estate and restriction of ownership rights and the act governing real rights, unless otherwise stipulated by this Act.

(5) A natural person or legal entity which provides an electronic communications network that is not a public communications network and wishes to carry out works referred to in the first paragraph of this Article on, above or beneath real estate owned by entities of public law, may in the procedure of creation of an easement act as the person entitled to the easement.

Article 77

(easement)

(1) Easement pursuant to this Act shall be a real right which, for the person entitled to the easement referred to in Articles 75 and 76 of this Act, comprises the following entitlements:

1. building, installation and operation of electronic communications networks and associated infrastructure;
2. access to the electronic communications network and associated infrastructure for the purposes of the operation and maintenance thereof;
3. removal of natural obstacles in the construction, installation, operation and maintenance of the electronic communications network.

(2) Eligible parties shall exercise their entitlements under the preceding paragraph of this Article so as to cause minimal disturbance to the owner of the real estate (hereinafter: owner) and burden to the least extent possible the servient estate. If the owner of the real estate suffers material damage in the exercise of such entitlements, the responsible party shall be obliged to reimburse the damage.

Article 78

(creation of an easement)

(1) For the purposes of creating an easement, the person entitled to the easement shall submit a draft contract to the owner of the real estate.

(2) A mandatory integral part of the draft contract shall be provisions on the admissibility of joint use of the built capability of the person entitled to the easement and other legal entities and natural persons providing electronic communications networks in accordance with the provisions of this law, and on the amount of cash compensation for the easement, which must be equal to the payment for an equivalent easement which could be received in ordinary commercial transactions with regard to the type and scope of rights and the properties of the real estate without taking into account unusual or personal circumstances. The cash compensation shall contain the reduced value of the servient estate or actual damage, as well as lost profit, including restrictions arising from the first through third paragraphs of Article 83 of this Act when transferring public communications networks.

(3) If the owner of the real estate fails to sign the draft contract within ten days of receipt of it, the person entitled to the easement may require that the competent body decide on the creation of an easement in accordance with Article 75 or 76 hereof.

Article 79

(conditions for decision making by the competent body)

(1) The competent administrative body shall, in deciding on the creation of an easement, determine and consider whether:

1. the acquisition of an easement is a prerequisite for the construction of the electronic communications network and associated infrastructure;
2. the construction of the electronic communications network was planned as to minimize encroachment on private property;
3. the exercise of the easement will substantially disturb the owner of the real estate.

(2) Extensive disturbance of the owner of the real estate under item 3 of the preceding paragraph shall be deemed to occur if:

1. access to the real estate (to the land or structure thereupon) by the owner of such real estate is prevented or rendered substantially more difficult;
2. the performance of activities by the owner of the real estate is prevented or rendered substantially more difficult; or
3. the value of the real estate (land or structure thereupon) is substantially reduced.

Article 80

(decision of the competent administrative authority)

The competent administrative body shall decide to create an easement to such an extent and for such a period of time as is urgently required for the construction, installation, maintenance or operation of the electronic communications network.

Article 81

(termination of easement)

(1) An easement shall terminate on the basis of an agreement between the two parties or upon the expiry of the period for which it was created.

(2) Easement use may terminate pursuant to a decision of the competent administrative body if it is determined that:

1. at the request of one of the parties, the easement is no longer required; or
2. at the request of the owner of the real estate, if the eligible party has failed within three years to begin exercising the entitlements, unless reasonable grounds exist for this failure.

Article 82

(relocation or alteration of other installations and the subsequent construction thereof)

(1) An operator wishing to construct a public communications network may, in the request to create an easement, ask for the relocation or alteration of other existing installations, but only in such case when the public communications network could not be built and other installations could be relocated or altered without negative effects on the use thereof, and when joint use of installations under the conditions of Article 8 hereof is not possible.

(2) The costs of relocation or alteration of installations must be fully covered by the network operator that has requested relocation or alteration.

(3) Subsequent construction of other installations must be executed so as to avoid disturbing influences on existing public communications networks and associated infrastructure.

Article 83

(relocation and protection of existing public communications networks)

(1) In a case when, due to the construction of public utilities and other structures, facilities and installations, it is necessary to relocate and protect the existing public communications network or associated infrastructure, the investor in the envisaged construction of public utilities and other structures, facilities and installations shall be obliged to notify the operator who is the owner of the public communications network or associated infrastructure that needs to be relocated and protected no less than thirty days before the envisaged commencement of works, and enable the presence and professional supervision of the execution of works to the operator's authorized person. Otherwise the investor shall be responsible for any possible damage incurred to the operator.

(2) The relocation and protection referred to in the first paragraph of this Article may, in agreement with the investor, be carried out by the operator providing the electronic communications network and who is the owner of the public communications network and associated infrastructure, or a provider authorized by him/her.

(3) The cost of relocation and protection shall burden the investor in the construction of public utilities and other structures, facilities and installations, unless the investor in the construction of public utilities and other structures, facilities and installations and the operator who owns the public communications network and associated infrastructure that is to be relocated and protected should determine otherwise by contract.

(4) The owner of the public communications network or associated infrastructure shall be obliged to provide information on the types and location of the networks and facilities so far as they are a part of associated infrastructure directly to the body responsible for land survey matters, for entry into the register of infrastructure networks and facilities in accordance with the regulation governing entry into such register. Any change to such information shall be communicated to the competent body within a period of three months from the occurrence thereof.

Article 83a

(supervision)

The inspector, in cooperation and in concerted action with the inspector responsible for spatial planning and construction matters, shall supervise the provisions of this chapter unless administrative decision making is involved.

VIII. RIGHTS OF USERS

Article 84

(transparency and publication of information)

(1) Transparent information on valid prices and tariffs and on general conditions of access to and use of publicly available telephone services shall be published.

(2) The Agency in its general act in accordance with the legislation of the European Community relating to universal service in the area of electronic communications shall prescribe in greater detail the information which operators of public telephone networks or of publicly available telephone services must publish, and which information it must publish itself.

Article 85

(subscriber contracts)

(1) Operators providing connection or access to the public telephone network shall be obliged to conclude a contract with the end user containing at least:

1. name and address of the operator;
2. statement of the services subject to the contract, the quality of such services offered and the deadline for completing initial connection;
3. type of maintenance works offered;
4. data on prices and tariffs for services subject to the contract applicable on the signing of the contract, and data on the method of obtaining the latest information on all valid tariffs and maintenance costs;
5. duration of the subscriber contract, the conditions for extension, and the conditions for cancellation of the subscriber contract or the provision of specific services;
6. compensation and payment for services not provided to the contractually agreed quality;
7. dispute resolution procedure;
8. method of notification of subscriber of intended changes to the conditions laid down in the subscriber contract, and the method of exercising the subscriber's right to terminate the contract in such instances;
9. procedures in the event of non-payment of services.

(2) The provisions of the previous paragraph shall also apply to other operators that conclude subscriber contracts with end users.

(3) Subscribers must be informed of all changes to the conditions laid down in the subscriber contract not less than 30 days prior to the proposed introduction of such changes. Subscribers must be informed that they have the right within the same interval without notice and without penalty to withdraw from the subscriber contract if they do not agree to the proposed changes.

(4) The provisions of the previous paragraph shall not affect or impinge upon due, unpaid liabilities of subscribers, or the obligation of subscribers to meet their contractually agreed obligations.

Article 86

(quality of public communications services)

(1) The Agency may after consulting interested parties require providers to publish comparable, appropriate and current information on the quality of their services, including accuracy of billing. Service providers shall be obliged on request to deliver such information to the Agency prior to publication.

(2) The Agency may by general act regulate in greater detail issues arising in the implementation of this Article, in particular determining quality of service parameters that must be measured, and the content, form and method of publication of information.

Article 87

(tone dialling and calling line identification)

The Agency may by decision instruct operators providing public telephone networks to enable their end users to use tone dialling and calling line identification where technically and economically feasible.

Article 88

(radio and telecommunications terminal equipment)

(1) Operators may not reject for technical reasons any reasonable request to connect users' radio or telecommunications terminal equipment compliant with the requirements from the regulations governing radio and telecommunications terminal equipment.

(2) Users may not connect to the public telephone network radio or telecommunications terminal equipment that does not comply with the requirements from the regulations governing radio and telecommunications terminal equipment. Inspectors shall supervise implementation of this provision in terms of oversight of the operation of the aforementioned equipment in operation. In so doing, they shall cooperate and work in conjunction with inspectors responsible for supervising goods in the market and the Agency on application of Article 142 of this Act.

Article 89

(directories and directory enquiry services)

(1) Subscribers of publicly available telephone services shall have the right to be recorded in the comprehensive directory from Article 12 of this Act.

(2) Operators and resellers of their services that allocate telephone numbers to subscribers must comply with all reasonable requests to provide publicly available directory enquiry services and directories, including the comprehensive directory enquiry service and the comprehensive directory, and must make available suitable information in the agreed form and under fair, objective, cost-based and non-discriminatory conditions. In the event of a dispute, the Agency shall decide pursuant to Article 129 of this Act.

(3) Each end user of publicly available telephone services must have access to the comprehensive directory enquiry services from Article 12 of this Act and to a suitable directory enquiry service in other member states.

Article 90

(operator assistance)

Each end user with access to the public telephone network must have access to operator assistance.

Article 91

(itemised billing)

(1) All subscribers of publicly available telephone services must have access to a level of itemised billing that enables them to verify and control their use and the sum charged. Such itemisation may not cover calls to freephone numbers, including emergency call numbers.

(2) The basic level of itemised billing shall be sent free of charge to subscribers on the issuing of each bill unless the subscriber informs the operator that he or she does not wish to receive itemised bills.

(3) At least the following elements must be separately stated in the basic level of itemised billing for publicly available telephone services at fixed locations:

1. billing period;
2. connection fee;
3. type and amount of all potential one-time payments in the billing period for which the bill is issued;
4. subscription charge;

5. type and amount of all other possible monthly payments;
6. the number of calls, their duration, the number of charging units, the amount, separately for:
 - domestic calls,
 - international calls,
 - calls to mobile public communications networks,
 - premium-service calls,
 - data transfer;
7. the type and amount for other services provided;
8. the total amount of the bill.

(4) If an operator from the previous paragraph uses different tariffs for local and long-distance calls, the required data from the first indent of clause 6 of the previous paragraph must be shown separately for local and long-distance calls.

(5) The provisions of the third paragraph of this Article shall apply to other operators of publicly available telephone services.

(6) All higher levels of itemised billing provided by the operator must be defined in the general conditions. If the operator provides them for a fee, the prices must be set at the level of the actual costs incurred by operators through the requested additional itemisation. The foregoing does not affect the possibility of other users and subscribers paying separately for individual services, where technically possible, and in such instances they shall not be included in the itemised bill.

Article 92

(right of objection and complaint)

(1) Each end user shall have the right to object against a decision or action of operators in relation to access to or provision of services to the relevant body or a body established by the operator.

(2) End users shall be obliged to submit their objections within 15 days from the day on which they learned of the decision or action objected to from the previous paragraph, wherein the objection shall also be deemed timely if submitted by registered mail on the last day of the complaint interval. If the interval would expire on a Saturday, Sunday, public holiday or non-working day, the objection shall be timely if submitted on the next working day.

(3) Operators shall be obliged to define in their general conditions the method and procedure for dealing with objections of end users.

(4) If an operator fails to accept or decide on objections within 15 days of receipt thereof, end users may, within 15 days of receipt of an unfavourable solution of their objection or after a 15 day period from the submission, submit a proposal to resolve the dispute to the Agency, which shall decide on the issue under the procedure from Article 129 of this Act. End users who are consumers are therein exempt from payment of administrative fees.

(5) Organisations that may file complaints under the law governing consumer protection may file objections due to violations of the general conditions and prices of operators in transactions with users and consumers, as well as act under the previous paragraph of this Article, wherein they shall be exempt from payment of administrative fees.

Article 93

(restriction or interruption for reasons on the part of the operator)

(1) Operators may without the consent of users temporarily restrict or interrupt access to their services if necessary for upgrading, modernisation or maintenance, or in the event of faults or damage.

(2) Operators shall be obliged to report restrictions or interruptions due to upgrading, modernisation or maintenance in public media at least one day in advance and at the same time to inform the Agency, and to inform users and the Agency of wider restrictions or interruptions due to faults or damage without delay.

(3) Restrictions or interruptions may only last as long as necessary for the execution of relevant works or for the removal of faults or damage.

Article 94

(restrictions or disconnections for reasons on the part of the subscriber)

(1) Operators may restrict access to their services and/or may disconnect subscribers and terminate the subscriber contract only if the subscriber fails to settle his or her liabilities or breaches other conditions laid down in the subscriber contract. The operator shall be obliged in the general conditions to stipulate which measures shall be taken for specific breaches, and the periods within which they shall be taken. The measure selected must be proportionate to such breaches and non-discriminatory

(2) In the event of breaches, operators shall be obliged to send a warning in a reliable manner to the subscriber stating the interval within which the subscriber must cease the breaches or settle his or her liabilities, and the measures to be taken by the operator if the subscriber after the expiry of such interval fails to cease the breaches or settle his or her liabilities.

(3) Irrespective of the provisions of the previous paragraph, operators shall not be obliged to notify subscribers in advance of measures if the breach results in an immediate and serious threat to public order, public safety or public health, or causes serious commercial or operational difficulties, and if such measure is envisaged in the general conditions. Non-payment of bills shall in no instances be deemed to be a breach requiring initiation of measures without prior notification.

(4) If a subscriber pursuant to Article 92 of this Act submits an objection or complaint regarding the amount on the bill, the operator may not initiate measures from this Article until the final resolution of the dispute or the final decision if the subscriber within the interval settles the undisputed part of the bill, or pays an amount equivalent to the average value of the last three undisputed bills.

(5) If technically feasible, operators shall be obliged to restrict access only to those services with regard to which the user breached the subscriber contract, except in instances of abuse or persistent late payment or non-payment of bills. Operators may not restrict access to and use of the standard European emergency call number 112.

Article 95

(public influence)

(1) The Agency and other state bodies shall be obliged, in formulating policy in the electronic communications market and prior to adopting measures that will significantly influence such market, and in adopting regulations, to obtain and take appropriate account of the opinions of interested parties.

(2) The Agency and other state bodies shall be obliged prior to adopting acts and regulations from the previous paragraph to publish their proposals and to collect opinions within the published interval, which may not be shorter than 30 days.

(3) After the expiry of the interval from the previous paragraph and prior to the adoption of the act or regulation from the first paragraph of this Article, the Agency or other state body shall be obliged to publish on its website the opinions and comments obtained, together with a statement regarding the manner in which they were taken into account or the reasons they were not taken into account. In so doing, information and data of a confidential nature shall not be published.

Article 95a

(supervision)

The Agency shall supervise implementation of the provisions of this section, except for the provisions of Article 88 of this Act.

IX. STATE OF EMERGENCY

Article 96

(provision of services)

(1) Operators providing access to the public telephone network and publicly available telephone services shall be obliged to implement appropriate technical and organisational measures to minimise the disruption to their activities in the event of catastrophic network breakdown, war or state of emergency and natural and other disasters. They shall be obliged to coordinate such measures with the bodies responsible for the security and defence system and the civil protection and rescue system. Operators shall be obliged to implement such measures throughout the duration of the circumstances that led to their adoption.

(2) The measures from the previous paragraph must ensure that the integrity of the public telephone network and the availability of the public telephone network and publicly available telephone services are restored in the shortest possible time. These measures must also enable uninterrupted access to and use of emergency call numbers, and in particular the standard European emergency call number 112 and 113 for police, even in the event of partial failure of the public telephone network.

(3) Operators must prioritise ensuring the operation of those parts of the network that are essential for the uninterrupted operation of the networks of the security and defence systems and the civil protection and rescue system. To minimise the failure of these networks, operators must also if required envisage alternative routes.

(4) The minister may issue instructions on what the measures from the first paragraph of this Article must constitute.

Article 97

(measures in a state of emergency)

(1) Operators providing a public telephone network shall be obliged to adjust their networks so as to give priority to communications from certain network termination points over communications from other network termination points (hereinafter: priority function). In instances of war or states of emergency and natural and other disasters, or in the event of

catastrophic network breakdown, operators may also enable the operation of priority network termination points by restricting or interrupting the operation of other telephone connections.

(2) The Government shall determine by decree the group of users with the right to priority network termination points in accordance with the previous paragraph.

(3) The Government shall by decision also determine other measures and restrictions or interruptions to operation linked to ensuring public communications networks or services in war or states of emergency, or in the event of natural and other disasters or catastrophic network breakdown, if required to eliminate the conditions that have arisen.

(4) Resolutions of the Government issued pursuant to this Article must be defined to the extent and valid for the period urgently required to eliminate the emergency circumstances from the first paragraph of this Article.

(5) Communications allocated priority function in the public telephone network of one operator shall retain such priority in the public telephone networks of other operators.

Article 98

(strikes)

Universal service providers and/or operators obliged to undertake obligations pursuant to this section of this Act shall be obliged by resolution to stipulate those of its employees who during strikes must enable uninterrupted provision of services within the framework of universal service or obligations of the operator pursuant to this section.

Article 99

(reimbursement of costs)

(1) Operators that are obliged pursuant to this section of this Act to adjust their networks so as to enable the priority function shall have the right to reimbursement of eligible and justified costs for compliance with such obligations.

(2) The Government shall decide on the level and method of payment of costs from the previous Article at the suggestion of the minister.

Article 100

(supervision)

Inspectors shall supervise the implementation of the provisions of this section.

X. PROTECTION OF SECRECY, CONFIDENTIALITY AND SECURITY OF ELECTRONIC COMMUNICATIONS AND RETENTION OF ELECTRONIC COMMUNICATIONS TRAFFIC DATA

Article 101

(meaning of user and telephone services)

(1) For the purposes of this section, a user means a natural person who uses public communications services for private or business purposes without necessarily having subscribed to such service.

(2) For the purposes of this section, telephone service means calls, including voice calls, voice mail, conference or data calls, additional services, including rerouting and call delivery, messaging and multimedia services, including short message services, upgraded media services and multimedia services.

Article 102

(protective measures)

(1) Public communications service providers shall be obliged separately or where necessary together to adopt suitable technical and organisational measures to ensure the security of their networks and/or services.

(2) Measures must, taking account of technological development and implementation costs, ensure a level of security and protection appropriate to the envisaged risk. Risk involves in particular any action, service or product that encroaches on the secrecy, confidentiality and security of electronic communications networks or electronic communications services by altering the availability, content, price or quality of service, and that operators alone or together with other operators can effectively prevent.

(3) In the event of special risk to the security of the network, public communications service providers shall be obliged immediately on learning of such risk to publish on their websites and in other appropriate manners to inform subscribers of such a risk. If the risk exceeds the scale of measures that the service provider is able to take, it shall also be obliged to inform subscribers of all possible means to eliminate the risk, including an indication of likely costs, and to enable them rapid and effective access to protective measures.

(4) In instances of abuse not arising due to the fault of users, public communications service providers shall accept responsibility and the costs incurred as a consequence of the abuse. Abuse shall be deemed to have occurred through no fault of the user when the user used all reasonable protective measures of which he was informed by the public communications service provider.

Article 103

(confidentiality of communications)

(1) Confidentiality of communications shall apply to:

1. the contents of communications;
2. traffic data and location data relating to communications from the previous clause of this paragraph;
3. facts and circumstances relating to interruptions of connections or failure to establish connections.

(2) Operators and anyone involved in ensuring and performing their activities shall be obliged to protect the confidentiality of communications, including after ceasing to perform the activity in which they were obliged to protect it.

(3) Those obliged under the previous paragraph may obtain communications information from the first paragraph of this Article only to the extent urgently required for the provision of certain public communications services, and may use or supply to others such information only for the provision of such services.

(4) If operators must in accordance with the previous paragraph obtain information on the contents of communications, or record or store communications and the associated traffic data, they shall be obliged to inform users thereof on conclusion of the subscriber contract or on commencement of provision of public communications services, and to delete the information on the contents of the communication or the communication as soon as technically feasible once it is no longer required for the provision of certain public communications services.

(5) All forms of surveillance or interception, such as listening, tapping, recording, storage and mediation of communications from the first paragraph of this Article shall be prohibited unless permitted in accordance with the previous paragraph or in accordance with Articles 107 to 107f of this Act, or where necessary for the conveyance of a message (e.g. fax message, electronic post, electronic mailbox, voice mail, SMS services).

(6) Subscribers or users may record communications, but they shall be obliged to inform the sender or recipient of the communication thereof or adjust the operation of the recording device such that the sender or recipient of the communication is informed of its operation (e.g. answering machine).

(7) Irrespective of the provisions of the fifth paragraph of this Article, recording of communications and the associated traffic data shall be permitted within the framework of lawful business practice with the objective of securing evidence of market transactions or any other business communications, or within organisations receiving emergency calls, for their registration, identification and resolution.

(8) The use of electronic communications networks to store data or to gain access to data stored in the terminal equipment of subscribers or users shall only be permitted if the subscriber or user was clearly and intelligibly informed in advance of the controller and purpose of processing of such data. Subscribers or users shall have the right to refuse such processing or to give his or her consent

(9) Irrespective of the provisions of the previous paragraph, technical storage of or access to data shall be permitted for the sole purpose of carrying out or facilitating the transmission of a message over an electronic communications network, or if essential for the provision of an information society service which the subscriber or user explicitly requested.

Article 104

(traffic data)

(1) Traffic data relating to subscribers and users processed and stored by an operator must be erased or changed so as to remove any link to a specific or identifiable person as soon as it is no longer needed for the transmission of a message, unless it belongs in one of the data categories from Article 107b of this Act, stored in accordance with the fourth and fifth paragraphs of Article 107a of this Act.

(2) Irrespective of the provisions of the previous paragraph of this Article, operators may store and process traffic data required for billing and network interconnection payments until payment in full for services, but no longer than until the expiry of the statutory limitation period.

(3) Service providers may, for the purpose of marketing electronic communications services or for the provision of value added services, process data from the first paragraph of this Article, to the extent and for the duration necessary for such marketing or services, only on the basis of the subscriber's or user's prior consent. Subscribers or users must be informed of the types of traffic data processed and the duration of such processing prior to giving consent. Users or subscribers shall have the right to withdraw their consent at any time.

(4) Service providers shall be obliged, for the purposes from the second paragraph of this Article, to stipulate in the general conditions the traffic data to be stored and processed and the duration thereof, and to declare that they shall handle such data in accordance with the law governing the protection of personal data.

(5) Traffic data may only be processed in accordance with the previous paragraphs of this Article by persons responsible under the supervision of the operator for billing or traffic management, customer enquiries, fraud detection, marketing of electronic communications

services or providing value added services, and such processing must be restricted to what is necessary for the purposes of such activities.

(6) Irrespective of the provisions of the first, second, third and fifth paragraphs of this Article, operators shall, at the written request of the competent body to inform such body of traffic data for the purposes of settling disputes, in particular disputes relating to interconnection or billing, and in accordance with the valid legislation.

Article 105

(calling and connected line identification)

(1) If a service provider offers calling line identification, the calling user must before each call have the possibility, using a simple means and free of charge, of preventing the display of the calling line identification. Subscribers shall be able to request this from the electronic communications service provider automatically and free of charge for all calls from their lines.

(2) Irrespective of the provisions of the previous paragraph, operators shall be obliged free of charge to override the prevention of calling line identification for emergency calls.

(3) If a service provider offers calling line identification, the called subscriber must have the possibility, using a simple means and free of charge for reasonable use of this function, of preventing calling line identification for incoming calls.

(4) If a service provider offers calling line identification and the calling line identification is displayed prior to the line being established, the called subscriber must have the possibility, using a simple means, of rejecting incoming calls where the calling line identification has been prevented by the calling user or subscriber.

(5) If a service provider offers connected line identification, the called subscriber must have the possibility, free of charge and using a simple means, of preventing connected line identification to the calling user.

(6) The provisions of the first paragraph of this Article shall also apply to calls to third countries originating in member states of the European Community and ending in third countries. The provisions of the third, fourth and fifth paragraphs of this Article shall also apply to incoming calls originating in third countries.

(7) If a subscriber requests in writing that the operator trace malicious or nuisance calls, the operator may temporarily record the origin of all calls ending in the network termination point of such subscriber, including those for which prevention of calling line identification has been requested.

(8) Operators shall be obliged to store data on tracing and to inform the subscriber who requested tracing of malicious or harmful calls of the results of tracing, and to supply such data on justified request. The data must also be supplied to the competent body under the conditions and in the manner from Article 107 of this Act.

(9) Service providers shall be obliged in their general conditions to publish the possibility of presentation and prevention of calling and connected line identification.

(10) The provisions of this Article shall apply to subscriber lines connected to digital exchanges, and shall only apply to subscriber lines connected to analogue exchanges if technically feasible without causing disproportionate costs.

Article 106

(location data other than traffic data)

(1) Location data other than traffic data relating to users or subscribers may be processed only in anonymous form or on the basis of the prior consent of the user or subscriber to the extent and for the duration necessary for the provision of a value added service. Users or subscribers may withdraw such consent at any time.

(2) Prior to giving consent relating to the processing data from the previous paragraph, users or subscribers must be informed:

1. of the type of data to be processed,
2. of the purpose and duration of such processing,
3. of the possibility of transmitting such location data to third parties for the purpose of providing the value added service.

(3) Users or subscribers who have consented to the processing of data from the first paragraph of this Article shall have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.

(4) Data from the first paragraph of this Article may be processed in accordance with the previous paragraphs of this Article only by persons under the supervision of the operator or third parties providing a value added service, and must be restricted to what is necessary for the purposes of providing the value added service.

(5) For calls to the standard European emergency call number 112 and the police number 113, operators in accordance with the second paragraph of Article 72 of this Act shall be obliged to forward to the competent body location data from the first paragraph of this Article, even when the user or subscriber has temporarily refused the processing of data from the first paragraph of this Article or has not consented to its processing.

(6) The provisions of the first to fourth paragraphs of this Article shall not apply to location data other than traffic data which must be stored under this Act.

Article 107

(lawful interception of communications)

(1) Operators shall be obliged at their own expense to ensure adequate equipment in their networks and appropriate interfaces enabling lawful interception of communications in their networks.

(2) Operators shall be obliged to enable lawful interception of communications at a particular point in the public communications network immediately on receipt of a copy of that part of the order of the competent body stating the point of the public communications network on which lawful interception of communications should be undertaken, and other data relating to the method, extent and duration of this measure.

(3) The copy of the order from the previous paragraph shall be made by the body issuing the order.

(4) Operators shall be obliged to enable lawful interception of communications in the manner, scope and duration laid down in the copy of the order.

(5) Operators shall be obliged together with the relevant bodies performing communications monitoring to ensure non-erasable registration of lawful interception of communications. In so doing they shall be obliged to retain the data collected permanently, and to protect it in accordance with the level of secrecy of the copy of the order, but with a minimum level of secrecy of "CONFIDENTIAL" in accordance with the regulations on the protection of secret data.

(6) The minister, in agreement with the minister responsible for internal affairs (hereinafter: minister responsible for internal affairs), the minister responsible for defence (hereinafter: the minister responsible for defence), and the director of the Slovenian Intelligence-Security Agency, shall prescribe the functionality of equipment and determine appropriate interfaces from the first paragraph of this Article

Article 107a

(general provisions on retained data)

(1) Operators shall be obliged for the purposes of acquiring data on traffic in electronic communications networks as stipulated by the law governing the criminal procedure, for the purposes of ensuring national security and the constitutional order, and the security, political and economic interests of the state, as stipulated by the law governing the Slovenian Intelligence-Security Agency, and for the purposes of national defence as stipulated by the law governing defence of the state, to retain data from Article 107b of this Act if they create or process them in providing the associated public communications services.

(2) The obligation from the previous paragraph shall also include the retention of data on unsuccessful calls, where the operator creates or processes and retains or records such data in providing the associated public communications services, but shall not include the retention of data on connections that were not successfully established and the contents of communications.

(3) Operators may join together to ensure the retention of data from Article 107b. The Agency may instruct an operator by a decision to ensure retention for other operators, if appropriate and necessary with regard to the mutual business relations of operators. The decision shall also rule on reasonable costs of the operator charged with data retention.

(4) Operators shall ensure the retention of data from the first, second and third paragraphs of this Article in accordance with the provisions of this Act for a period of 24 months from the date of communication.

(5) The competent body that decides on access to data from the first paragraph of this Article may at the suggestion of the proposer of the order for access to data, extend the duration of retention for a limited period, if justified by the specific circumstances of criminal prosecution stipulated by the law governing the criminal procedure, ensuring national security and the constitutional order and the security, political and economic interests of the state as stipulated by the law governing the Slovenian Intelligence-Security Agency, and national defence as stipulated by the law governing national defence. The competent body deciding on access to data shall inform the ministry and the information commissioner thereof. The ministry shall officially inform the European Commission and other European Union member states of the extension, and state the grounds for the extension. Implementation of the measure shall cease immediately the special circumstances cease to apply or when the

competent body that decided on the extension receives notification from the European Commission that the measure is impermissible.

(6) Operators shall be obliged at the end of the retention period to destroy all data retained in accordance with the provisions of this Act, except for such data for which an access order was granted and which was sent to the competent body.

Article 107b

(categories of data to be retained)

The data to be retained (hereinafter: retained data) are:

1. data required to detect and recognise the source of communication, comprising:
 - for telephone services in fixed and mobile networks, the telephone number of the caller and the name and address of the subscriber or registered user;
 - for Internet access, electronic mail and the use of Internet telephony, the user name and telephone number allocated for each communication entering the public telephone network, the name and address of the subscriber or registered user allocated the Internet protocol address at the time of the communication, user name or telephone number;
2. data required to identify the destination of communication, comprising:
 - for telephone services in fixed and mobile networks, the called telephone number and in instances including added services, such as call rerouting or forwarding, the number or numbers to which the call was rerouted, the name and address of the subscriber or registered user;
 - for access to electronic mail and the use of Internet telephony, user name or telephone number of the recipient of the call over Internet telephony, the name and address of the subscriber or registered user, and the user name of the intended recipient of the communication;
3. data required to determine the date, time and duration of communications, comprising:
 - for telephone services in fixed and mobile networks, the date, start time and duration or end time of the communication,
 - for Internet access, electronic mail and the use of Internet telephony, the date and time of connection to and disconnection from the Internet, wherein certain time bands shall be taken into account, together with the static or dynamic Internet protocol address allocated by the Internet service provider to the communication, and the user name of the subscriber or registered user, and the date and time of connection to and disconnection from electronic mail Internet services or Internet telephony with regard to specific time bands;
4. data required to determine the type of communication, comprising:
 - for telephone services in fixed and mobile networks, the type of telephone service used;
 - for access to electronic mail and the use of Internet telephony, the type of service used;
5. data required to recognise the communications equipment of users, comprising:
 - for telephone services in a fixed network, the calling and called telephone number;
 - for telephone services in a mobile network, the calling and called telephone number, the international identity of the mobile subscriber calling and called parties, the international identity of the mobile terminal of the calling and called parties, and in the case of prepaid anonymous services, the date and time of start of use of services and the ID of the cell where the services were provided;
 - for Internet access, electronic mail and the use of Internet telephony, the calling telephone number for dial-up access, digital subscriber line or other end point of the initiator of the

communication, the ID cell at the start of communication, and data which determine the geographical location during the period for which communications data are retained.

Article 107c

(protection of retained data)

(1) Operators shall ensure the protection of retained data in accordance with the law governing the protection of personal data. In connection with this, each operator alone or together shall adopt appropriate technical and organisational measures to protect the retained data against destruction, loss or alteration, and unauthorised or unlawful forms of storage, processing, access or disclosure.

(2) Operators may process retained data only to the extent necessary to ensure retention.

(3) Retained data must be of the same quality as data in the network. The provisions of this Act on the security and protection of data in the network shall apply to retained data.

Article 107d

(order for access to data and data forwarding)

(1) Operators shall be obliged to supply retained data immediately on receipt of a copy of that part of the order of the competent body stating all the necessary data on the extent of access.

(2) The copy of the order from the previous paragraph shall be made by the body that issued the order.

(3) Operators shall be obliged on receipt of an order to supply retained data to the competent body in the extent stipulated in the copy of the order.

(4) Operators together with the competent bodies that may request access to retained data shall be obliged to ensure the non-erasable registration of each supply of retained data. In so doing, they shall be obliged to retain the acquired and submitted data permanently, and to protect them in accordance with the level of secrecy of the copy of the order, with a minimum level of secrecy of "CONFIDENTIAL" in accordance with the rules on the protection of secret data.

(5) The minister in agreement with the minister responsible for internal affairs, the minister responsible for defence and the director of the Slovenian Intelligence-Security Agency, shall prescribe in greater detail the method of supplying retained data.

Article 107e

(costs of retention)

Operators shall be obliged to ensure all necessary technical and organisational measures to retain data in accordance with the provisions of this Act at their own expense.

Article 107f

(data on data access orders and supply of data)

(1) The court that ordered access to data shall maintain a database of data access orders and supplies of data retained pursuant to Article 107d of this Act, comprising:

1. number of cases in which access to retained data was ordered,
2. statement of the date when data were retained, the date when the competent body issued the data access order and the date of supply of data, and
3. the number of cases in which data access orders could not be implemented.

(2) The competent court shall forward the database from the previous paragraph for the current year to the ministry responsible for justice no later than 31 January of the following year.

(3) The ministry responsible for justice shall, on the basis of data received from all courts, prepare no later than 31 March each year a joint report on access to retained data for the previous year, and forward it to the ministry, which will in turn supply it to the European Commission without delay.

Article 108

(call forwarding)

(1) Subscribers must have the possibility, using a simple means and free of charge, of stopping automatic call forwarding by a third party to the subscriber's terminal.

(2) This Article shall apply to subscriber lines connected to digital exchanges and to analogue exchanges only if technically feasible without causing disproportionate costs.

Article 109

(unsolicited communication)

(1) The use of automated calling systems to make calls to subscribers' telephone numbers without human intervention (automatic calling machines), facsimile machines or electronic mail for the purposes of direct marketing shall be permitted only on the basis of subscribers' prior consent.

(2) Irrespective of the provisions of the previous paragraph, natural persons or legal entities that obtain electronic mail addresses from the customers for their products or services, may use such addresses for direct marketing of their similar products or services, but they shall be obliged to give their customers the possibility at any time, free of charge and using a simple means, of preventing such use of their electronic address.

(3) The use of means for direct marketing using electronic communications other than those laid down in the previous two paragraphs of this Article shall be permitted only with the consent of the subscriber.

(4) The sending of electronic mail for the purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the message is sent, or without a valid address to which the recipient may send a request that such direct marketing cease, shall be prohibited.

Article 110

(subscriber data)

(1) Operators may collect the following data on their subscribers:

1. full name or title of subscriber and its organisational form;
2. activity of the subscriber, at his request;
3. address of the subscriber;

4. subscriber number or other numbering element used to establish connections to the subscriber;
5. at the request of the subscriber, the academic, scientific or professional title of the subscriber or the address of his electronic mail;
6. on the basis of payment, additional data if so desired by the subscriber, provided that this does not encroach on the rights of third parties;
7. tax number for natural persons, and tax and registration numbers for legal entities.

(2) Data from the previous paragraph collected may only be used for:

1. the conclusion, implementation, monitoring and termination of subscriber contracts;
2. billing for services;
3. the preparation and issuing of subscriber directories in accordance with this Act.

(3) On termination of subscription, data from the first paragraph of this Article must be retained for a further one year from the date of issue to the subscriber of the bill for services provided, and if during such interval an order is issued by the competent body for the retention and supply of such data, for the period stipulated in the order of the competent body.

Article 111

(directories)

(1) Before their data are included in a printed or electronic directory available to the public or used by directory enquiry services, subscribers must be informed free of charge of the purposes of such directory and of any further possibilities of use of such data, particularly on the basis of search functions. The costs of notification shall be borne by the publisher of the directory.

(2) Subscribers must have the opportunity to determine which if any of their personal data stipulated in clauses 1 to 6 of the first paragraph of the previous Article are included in a public directory. Subscribers may verify data or require their correction or erasure.

(3) Refusal to be included in a public directory and verifying, altering or erasing personal data from the previous paragraph of this Article must be free of charge.

Article 112

(supervision)

(1) The Agency shall supervise implementation of the provisions of this section on the protection of secrecy, confidentiality and security of electronic communications, except for the provisions on the retention of traffic and location data acquired or processed in connection with providing public communications networks or services in accordance with Articles 107a to 107f of this Act.

(2) The information commissioner shall undertake inspection supervision of the retention of traffic and location data acquired or processed in connection with providing public communications networks or services in accordance with Articles 107a to 107f of this Act.

XI. DIGITAL RADIO AND TELEVISION BROADCASTING

Article 113

(digital radio and television broadcasting)

(1) Public communications networks intended for the distribution of digital television services must be planned so as to be appropriate for the distribution of high-definition television services and programmes.

(2) Operators providing public communications networks from the previous paragraph shall be obliged in the receipt and redistribution of high-definition television services or programmes to maintain their high-definition format.

(3) The Agency may by decision require operators providing electronic communications networks from the first paragraph of this Article to ensure access to application programme interfaces or electronic programme guides under fair, reasonable and non-discriminatory conditions.

(4) The Agency shall by general act prescribe the conditions for interoperability of digital interactive television services and digital television equipment used by consumers.

(5) The Agency shall supervise the implementation of provisions on digital radio and television broadcasting.

Article 114

(conditional access systems)

(1) Conditional access systems for digital television or radio services operating in the market of the European Community must have the necessary technical capability for cost-effective transcontrol allowing the possibility for full control by public communications network operators at local or regional level of the services using such conditional access systems.

(2) Operators of conditional access services providing access to digital television and radio services on which broadcasters are dependent shall be obliged to offer to all broadcasters, under fair, reasonable and non-discriminatory conditions, technical services enabling their subscribers to access their services by means of decoders.

(3) Operators from the previous paragraph shall be obliged to keep accounts for the provision of conditional access services separate from other activities.

(4) Holders of industrial property rights to conditional access products and systems shall be obliged to grant licences to manufacturers of consumer equipment under fair, reasonable and non-discriminatory conditions. When granting licences, such holders may not through any conditions prevent manufacturers from including in the same product common interfaces enabling connection to other access systems or elements specific to another access system, provided that they comply with the relevant and reasonable conditions ensuring the security of transactions of conditional access system operators.

(5) The Agency shall supervise the implementation of provisions on conditional access systems.

XII. AGENCY

Article 115

(Agency)

- (1) The Agency shall be a legal person of public law.
- (2) The name of the Agency shall read "Post and Electronic Communications Agency of the Republic of Slovenia".

Article 116

(Agency director)

(1) The director shall run, present and represent the Agency and shall be appointed by the Government for a period of five years pursuant to a public tender. Selection must primarily take account of the candidate's professional and international experience.

(2) The director may appoint a deputy for individual areas.

(3) The director and deputies, their spouses or unmarried partners, or their partners in accordance with the law governing same-sex partnerships, and direct relations up to and including the second branch may not themselves as natural persons perform activities in the fields regulated by the Agency or be members of the management or supervisory boards of organisations performing activities in the fields regulated by the Agency, and may not hold equity holdings in organisations engaged in activities directly subject to regulation by the Agency, or in organisations with equity holdings in such organisations.

(4) The Government shall dismiss the director:

1. at the director's suggestion;
2. if he/she is deemed incapacitated or medically unfit to perform his/her work;
3. if he/she performs his/her work unconscientiously or unprofessionally, or proves in terms of work or professional qualities to be unsuited to perform the work of the position of director;
4. if the Agency fails to achieve satisfactory working results;
5. if he/she is lawfully sentenced to jail for criminal offences;
6. if in the performance of his/her duties he/she violates the provisions of this Act and of regulations adopted pursuant thereto.

Article 117

(operation of the Agency)

(1) The Agency must operate independently of natural persons and legal entities providing electronic communications networks and/or services, and must be impartial towards them.

(2) The organisation and operation of the Agency shall be governed by a statute issued by the director of the Agency and confirmed by the Government.

(3) The director shall issue general acts and recommendations on all matters within his competence, and shall decide on individual matters within the competence of the Agency. In

so doing, he/she may authorise persons within the Agency complying with the conditions for deciding in general administrative procedures to decide in individual matters.

(4) The Agency may by general act govern in greater detail issues arising in the implementation of individual provisions of this Act.

(5) The Agency shall be obliged to publish the statute, recommendations from the third paragraph of this Article and general acts of the Agency issued for the exercise of public powers in the *Official Gazette* of the Republic of Slovenia and on its website.

Article 118

(proceedings before the Agency)

(1) The Agency shall manage procedures and issue decisions and other individual acts under the law governing the general administrative procedure unless otherwise stipulated by this Act. Where this Act stipulates that decisions or other individual acts are issued after a public tender, the Agency shall implement a public tender under this Act prior to initiating the administrative procedure.

(2) Decisions or other individual acts of the Agency shall be final in the administrative procedure, unless otherwise stipulated by this Act.

(3) The Agency itself shall conduct administrative implementation of its enforceable decisions and in so doing may issue appropriate penalties and use enforcement measures prescribed by the General Administrative Procedures Act. The tax body shall perform administrative enforcement of financial liabilities under the procedure prescribed for enforcement of tax liabilities.

Article 119

(judicial protection)

(1) Judicial protection in an administrative case is ensured against a final decision or other individual act of the Agency.

(2) Suits in an administrative case shall be filed with the Administrative Court of the Republic of Slovenia in Ljubljana. The Administrative Court based in Ljubljana shall rule on the case.

(3) Procedures relating to suits in administrative cases under this Act shall be fast. The court shall rule on them under this Act with priority, which shall also apply to appeals courts.

Article 120

(competences and objectives of the Agency)

(1) The Agency shall undertake all tasks laid down by this Act, secondary legislation adopted pursuant thereto, and other valid legislation.

(2) The Agency shall be obliged in performing its tasks to take all measures necessary to achieve the objectives from the fourth, fifth and sixth paragraphs of this Article, and in so

doing within the framework of its competences shall be obliged to contribute to realisation of guidelines intended to foster cultural and linguistic diversity and media pluralism.

(3) Measures adopted by the Agency must as far as possible be technologically neutral and proportionate to the objective which the Agency wishes to achieve thereby. Prior to adopting measures, the Agency shall be obliged to undertake a careful review of the actual situation.

(4) The Agency shall promote effective competition in the provision of electronic communications networks, electronic communications services and the related capacity and services such that among others in particular it:

1. ensures that users, including disabled users take full use of the benefits in terms of choice, price and quality;
2. ensures there is no distortion or restriction of competition in the electronic communications sector;
3. promotes effective investment in infrastructure and supports innovation;
4. ensures efficient use and management of radio frequencies and number space;

(5) The Agency shall contribute to the development of the single market among others by:

1. removing remaining obstacles to the provision of electronic communications networks, related capacities and services, and electronic communications services at the European Union level;
2. fostering construction and development of pan-European networks, interoperability of pan-European services and end-to-end connectivity;
3. ensuring that, in similar circumstances, there is no discrimination in the treatment of natural persons and legal entities providing electronic communications networks and/or services;
4. cooperating with other competent regulators of the European Union member states (hereinafter: other regulators) and with the European Commission in a transparent manner to ensure the development of consistent practice in their operation and consistent implementation of European Union legislation.

(6) The Agency shall support the interests of European Union citizens among others by in particular:

1. ensuring that all citizens have access to universal service;
2. ensuring a high level of protection of consumers in their dealings with suppliers, particularly by ensuring the possibility of simple and inexpensive dispute resolution procedures through an institution that is independent of all parties involved;
3. contributing to ensuring a high level of protection of personal data and privacy;
4. fostering the provision of clear information, particularly by requiring transparency of tariffs and conditions for the use of public communications services;
5. considering the needs of special social groups, particularly disabled users;
6. ensuring preservation of the integrity and security of public communications networks.

(7) In undertaking its duties, the Agency shall be obliged to respect the recommendations of the European Commission issued to harmonise application of the provisions of the directives from the second paragraph of Article 2 of this Act. If the Agency decides not to respect the recommendations, it shall inform the European Commission thereof and state the reasons for its position.

Article 121

(public work of the Agency)

(1) The operation of the Agency shall be public.

(2) In its statute, the Agency shall be obliged for the purposes of implementing the provisions of the previous paragraph of this Article to define in greater detail:

1. the rules of the procedure for collecting opinions pursuant to Article 95 of this Act in which it defines at least the method and place of publication of acts from the first paragraph of Article 95 of this Act and the results of consultations, and the form of monitoring the opinions of interested parties;

2. the method of access to data and information which the Agency is obliged to publish and other public data and information;

3. the form of cooperation with representatives of organisations of users of public communications services, and assistance in the formation and operation thereof.

(3) The Agency shall be obliged to publish data and information on:

1. contracts concluded on interconnections of operators with significant market power;

2. reference offers of those operators obliged to formulate and publish them;

3. calculations of compensation and costs for universal service provision;

4. decisions on the rights of use of radio frequencies and numbering elements;

5. transfer of rights of use of radio frequencies and numbering elements.

Article 122

(supervision of the work of the Agency)

(1) The Government shall issue consent regarding the programme of work and the financial plan of the Agency.

(2) The Agency shall be obliged to keep accounts separately by the areas of its regulation in accordance with the law governing accountancy and regulations issued pursuant thereto. An authorised auditor must review the accounting statements and business reports of the Agency.

(3) The Agency shall be obliged each year to prepare a report on its work and a business report. The consent of the Government shall be required for both reports, and the National Assembly of the Republic of Slovenia (hereinafter: National Assembly) must be informed thereof.

(4) The Agency shall publish the report on its work in the *Official Gazette* of the Republic of Slovenia.

(5) The ministry responsible for administration shall undertake supervision of the implementation of regulations on the administrative procedure.

Article 123

(cooperation of the agency and other competent state bodies)

Whenever other state bodies are also competent regarding specific areas for which the Agency is competent pursuant to this Act, the Agency and the other competent state bodies shall be obliged to cooperate and consult.

Article 124

(cooperation of the agency with the body responsible for protection of competition)

(1) The Agency and the body responsible for the protection of competition shall be obliged to exchange the data and information they require to exercise their competences. In so doing, they shall be obliged to retain the level of confidentiality.

(2) Data and information from the previous paragraph must be restricted to what is appropriate and proportionate to the purpose for which they were exchanged.

(3) In the implementation of relevant market analyses and determination of significant market power under this Act, the Agency shall cooperate with the body responsible for the protection of competition without prejudice to such body's exclusive competence to adopt decisions in this field.

Article 125

(cooperation of the Agency with other regulators and the European Commission)

(1) The Agency shall be obliged to cooperate with other regulators and with the European Commission, and must consult with such particularly regarding measures they wish to use to improve the operation of the electronic communications market.

(2) The Agency shall be obliged to consult with other regulators and the European Commission prior to adopting measures relating to market determination or the market analysis procedure, or prior to imposing, amending or revoking specific obligations, which would affect trade between European Union member states. To this end, it shall be obliged at the same time as initiating consultation pursuant to Article 95 to report the explained measure to other regulators and the European Commission, and to stipulate the interval within which they may report their comments. This interval must be equal to the interval for consultation pursuant to Article 95, and may not be shorter than 30 days.

(3) The Agency may after the expiry of the interval from the previous paragraph adopt the proposed measure, wherein it shall be obliged to take the utmost account of comments received from other regulators and the European Commission. It shall be obliged to send the adopted measure to the European Commission without delay.

(4) Irrespective of the provisions of the previous paragraph, the Agency shall be obliged to delay for an additional 60 days the adoption of a proposed measure from the second paragraph of this Article relating to the definition of a relevant market not contained in the recommendations of the European Commission, or to designation of an operator with significant market power, if the European Commission within the interval from the second paragraph reports that the measure as proposed would hinder the operation of the single market or indicates that it has serious doubts as to its compatibility with valid legislation of the European Community.

(5) If the European Commission within the interval from the previous paragraph does not decide that the Agency may not adopt the proposed measure and at the same time does not propose amendments, the Agency may adopt the proposed measure and report it to the European Commission and other regulators.

(6) If required for immediate protection of competition or the rights of users, the Agency may exceptionally without consultation in accordance with the second and/or fourth paragraphs of this Article, adopt an interim measure proportionate to the objectives sought. The Agency shall be obliged to report without delay the interim measure, together with all the reasons for its adoption, to other regulators and the European Commission.

(7) If the Agency wishes to render permanent or extend an interim measure from the previous paragraph, it shall be obliged to take account of the second and/or fourth paragraphs of this Article.

Article 126

(collection and provision of data and information)

(1) All natural persons and legal entities providing electronic communications networks and/or services shall be obliged to make available to the Agency on the basis of a written request all available information, including financial data, which the Agency requests to exercise its competences, and in particular:

1. systematic or case-by-case verification of compliance with requirements relating to contributions to finance universal service or the payment of fees for the use of radio frequencies, for the use of numbers, or payment for the efficient use of a limited natural resource;
2. case-by-case verification of compliance with the provisions of this Act or individual acts of the Agency where legal remedy has been sought or where the Agency has other reasons to believe that the provisions have not been complied with, or if the Agency investigates on its own initiative compliance with the provisions of this Act or individual acts of the Agency;
3. procedures for and assessment of requests for granting rights of use to limited resources pursuant to this Act;
4. publication of comparative overviews of quality and price of services for the benefit of consumers;
5. clearly defined statistical purposes;
6. market analysis.

(2) Information requested must be proportionate to the purpose for which it will be used. The Agency shall be obliged in the request to state the intended use of the information requested.

(3) Persons from the first paragraph of this Article shall be obliged to supply the information to the Agency free of charge and to the extent and within the interval laid down in the request.

(4) The Agency shall be obliged to send to the European Commission after a reasoned request the information which the European Commission needs to perform its tasks and which is proportionate to the performance of those tasks. If the Agency previously obtained the information requested from specific persons from the first paragraph of this Article, it shall be obliged to inform such persons thereof prior to supplying such information, and to explain

that the European Commission may forward this information to other regulators. If such persons reasonably oppose the supply of such data and information to other regulators, the Agency shall be obliged to inform the European Commission thereof.

(5) The Agency may make information obtained from persons from the first paragraph available to other regulators upon a reasonable request.

(6) The Agency shall be obliged in the supply and/or use of confidential information to maintain the level of confidentiality. The Agency may only use confidential information obtained from another regulator for the purposes for which it was requested.

(7) The Agency may publish specific data and information if it believes that to do so would contribute to an open and competitive market. In so doing, it shall be obliged to define by general act the method of access to such publication in greater detail.

Article 127

(official records)

(1) The Agency shall keep official records of:

1. operators,
2. holders of decisions on the allocation of radio frequencies,
3. holders of decisions on the allocation of numbering elements.

(2) The Agency shall keep the official records from the previous paragraph of this Article as an interconnected information base.

(3) The Agency shall keep the following data in the official records of operators:

1. name, address, tax number for natural persons;
2. title, principal office, registration number, register number for legal entities;
3. data on notification of public communications networks and/or public communications services;
4. data on the date of commencement, alteration or cessation of the provision of public communications networks and/or services;
5. data on decisions designating operators with significant market power;
6. data on the settlement of obligations of operators arising from this Act;
7. data on penalties for violations of the provisions of this Act.

(4) The Agency shall keep the following data in official records of holders of decisions on the allocation of radio frequencies:

1. name, address, tax number for natural persons;
2. title, principal office, registration number, register number for legal entities;
3. data on the decision on allocation of radio frequencies, on the electronic communications network and/or service for which the allocated radio frequency is used, date of expiry of such decision and other data from such decision;
4. data on the settlement of obligations of holders of decisions on the allocation of radio frequencies arising from this Act;

5. data on penalties imposed on holders of decisions on the allocation of radio frequencies for violations of the provisions of this Act.

(5) The Agency shall keep the following data in the official records of holders of decisions on the allocation of numbering elements:

1. name, address, tax number for natural persons;
2. title, principal office, registration number, register number for legal entities;
3. data on the decision on allocation of numbering elements, on the electronic communications network and/or service for which the allocated numbers are used, date of expiry of such decisions and other data from such decisions;
4. data on the settlement of obligations of holders of decisions on the allocation of numbering elements arising from this Act;
5. data on penalties imposed on holders of decisions on the allocation of numbering elements for violations of the provisions of this Act.

(6) The Agency may also obtain data listed in this Article from official records of other state bodies and through direct computer or electronic links.

(7) The Agency shall retain the data from the third paragraph of this Article for as long as the operator provides a public communications network or service pursuant to this Act, and then it shall archive the data. The Agency shall retain the data from the fourth and fifth paragraphs of this Article for as long as the natural person or legal entity has the right to use the radio frequency and/or number, and then it shall archive it permanently.

Article 128

(financing the agency)

The Agency shall be financed by revenues from payments stipulated by this Act and other laws in the areas of its operation.

XIII. DISPUTE RESOLUTION

Article 129

(dispute resolution)

(1) The Agency shall resolve disputes between subjects in the electronic communications market in the Republic of Slovenia, such as disputes between natural persons and legal entities providing electronic communications networks and/or services, and disputes between natural persons and legal entities providing electronic communications networks and/or services and users in connection with obligations arising from this Act, from regulations issued pursuant thereto, and from general acts, although this shall not encroach on possible court jurisdiction.

(2) The Agency shall strive to resolve disputes initially by the initiation of the mediation procedure from Article 130 of this Act.

(3) If either party opposes the mediation of the Agency, or if such mediation does not lead to settlement or agreement between the parties within a maximum of four months from the initiation of the mediation procedure in a dispute between natural persons and legal entities providing electronic communications networks and/or services, or within two months in other disputes, and no court proceedings have been initiated in the same case, the Agency shall,

on request of any party or in the case of Article 9 of this Act also ex officio, initiate a dispute resolution procedure under this Article.

(4) In the procedure for resolving disputes on the part of the Agency, the provisions of the law governing the general administrative procedure shall apply, unless otherwise stipulated by this Act.

(5) If any party during the dispute resolution procedure before the Agency initiates proceedings before a competent court on the same case, the dispute resolution procedure before the Agency shall halt.

(6) The Agency shall issue a decision in the shortest possible time, but no later than within four months of the initiation of the resolution procedure for disputes between natural and legal persons providing electronic communications networks and/or services, and within two months of the initiation of such procedure in other disputes.

(7) The Agency shall be obliged to decide pursuant to the law, secondary legislation and general acts, and in accordance with the objectives that pursuant to Article 120 of this Act it pursues on the market, particularly with regard to ensuring effective competition and protecting the interests of users. In dispute resolution procedures, parties shall be obliged to cooperate fully with the Agency. Natural persons and legal entities providing electronic communications networks and/or services shall in accordance with Article 126 of this Act be obliged on written request to make available to the Agency all necessary information available to them.

(8) The Agency shall be obliged to publish decisions relating to disputes between natural and legal persons providing electronic communications networks and/or services in a form that takes account of the prohibition on publishing commercial secrets of parties. The Agency shall also publish on its website data and/or information on other disputes it considers.

(9) In disputes between subjects in the electronic communications market arising in multiple European Union member states for which in addition to the Agency one or more other regulators are also competent, the Agency shall be obliged to coordinate its efforts to resolve the dispute with such regulator or regulators, and in accordance with the objectives the competent bodies pursue in the market. If the dispute was submitted to the Agency for resolution and following coordination with other competent regulators, the provisions of the previous paragraphs of this Article shall apply *mutatis mutandis*.

Article 130

(mediation)

(1) After studying a proposal to resolve a dispute, the Agency shall initiate the mediation procedure, the purpose of which is for the parties to reach an agreed settlement.

(2) Within eight days of receipt of a proposal to resolve a dispute by one of the disputing parties, or ex officio in the case of Article 9, the Agency shall inform in writing the disputing parties of the initiation of the mediation procedure and the conditions for resolving the dispute by a decision of the Agency from the third paragraph of the previous Article, if no agreement is reached.

(3) The Agency shall have the role of mediator in the mediation procedure, and shall manage the entire procedure so as to respect the principles of impartiality, equality, justice and confidentiality, and the objectives it pursues in accordance with Article 120 of this Act.

(4) The mediation procedure shall be confidential in nature, which must be respected by all those involved in it in any way.

(5) The Agency may define the rules for mediation in greater detail in the general act.

Article 131
(deleted)

Article 132
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Article 133
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Article 134
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Article 135
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Article 136
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Article 137
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Article 138
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Article 139
(deleted)

Article 140
(deleted)

XIV. SUPERVISION AND DECISIONS ON VIOLATIONS

Article 141
(competence for supervision)

(1) The Agency shall supervise the implementation of the provisions of this act and regulations and general acts issued pursuant thereto, except in cases within the competence of inspectors pursuant to the sixth paragraph of Article 7, Article 83a, the second paragraph of Article 88 and Article 100 of this Act or within the competence of the information commissioner pursuant to the second paragraph of Article 112 of this Act. The Agency shall also supervise the implementation of all individual acts or measures that it adopts pursuant to this Act and regulations and general acts issued pursuant thereto.

(2) The Agency shall also supervise the implementation of the provisions of European Community regulations in the field of electronic communications that are directly applied in the legal order of the Republic of Slovenia, where they stipulate supervision and penalties on the member state level.

Article 142

(cooperation among supervisory bodies)

The Agency, competent inspectors and the information commissioner shall be obliged to cooperate and to inform one another of supervision measures taken, to provide one another with data required for the implementation of supervision, and to cooperate professionally. The Agency may also undertake individual professional tasks within the competence of and on request of the inspector.

Article 143

(supervision procedure)

(1) The provisions of the law governing inspection supervision shall apply to the inspection procedure under this Act, unless otherwise stipulated by this Act.

(2) If supervision is undertaken by the information commissioner, the provisions of the law governing protection of personal data shall also apply to the supervision procedure.

Article 144

(supervision procedure for natural persons or legal entities providing electronic communications networks and/or services)

(1) If during supervision of natural persons or legal entities providing electronic communications networks and/or services, the Agency finds irregularities in the implementation of the provisions of this Act and regulations, general acts and individual acts adopted pursuant thereto, or of measures it adopts itself, it shall inform such persons in writing and provide them with a suitable opportunity to comment on the matter or eliminate the irregularities themselves within the interval stipulated by the Agency. The deadline set may be shorter than 30 days for repeat violations or if the natural person or legal entity concerned agrees.

(2) If a natural person or legal entity fails to eliminate the irregularities within the set interval from the previous paragraph, the Agency shall as a supervisory body by decision adopt appropriate and proportionate measures to ensure elimination of the irregularities, and shall punish the person.

(3) Decisions issued in the inspection procedure that contain measures to eliminate irregularities with the reasons for them must be sent to the person from the previous paragraph within seven days of their issue, and they must also include a reasonable interval for compliance with the imposed measures.

(4) In instances of violations of Article 23 and clauses 1 and 2 of the first paragraph of Article 126 of this Act, the provisions of the first and second paragraphs of this Article shall not apply.

(5) If the measures from the second paragraph of this Article are not completed within the interval set, the Agency may in the event of serious and repeat violations by decision prohibit the person from the first paragraph of this Article from further provision of electronic communications networks and/or services, or temporarily or permanently revoke the right to use radio frequencies or numbering elements.

(6) Irrespective of the provisions of the first, second and fifth paragraphs of this Article, the Agency, if it has evidence of violations representing an imminent and serious threat to public order, public safety or the life and health of people, or that will cause serious economic or operational difficulties for other providers or users of electronic communications networks or

services, may adopt the necessary temporary measures to eliminate this situation prior to the adoption of a final decision, without having to determine in advance an interval for the elimination of the irregularities or providing an opportunity to comment on the matter. In such instances, the relevant legal person or natural entity providing electronic communications networks and/or services shall have the opportunity to comment on the matter and propose solutions only after the necessary temporary measures have been adopted.

Article 145

(Agency officials)

(1) The supervisory tasks of the Agency pursuant to this section shall be undertaken by persons employed by the Agency with the authorisation of the minister (hereinafter: Agency officials).

(2) Authority to perform inspection tasks shall be proven by an official identity card and badge issued by the minister.

(3) Agency officials shall be obliged to meet the conditions prescribed for inspectors by the law governing inspection supervision.

(4) Persons from the first paragraph of this Article shall independently perform supervisory tasks under this Act, manage administrative procedures and issue decisions and resolutions in administrative procedures. The provisions of the law governing inspection supervision shall apply mutatis mutandis to other powers, competences, procedures and measures.

Article 146

(legal remedy)

(1) Decisions of the Agency and the information commissioner issued in the inspection procedure pursuant to this Act shall be final in the administrative procedure. Appeals may be lodged against such decisions in an administrative suit.

(2) Appeals to the relevant ministry may be made against decisions issued in inspection procedures under this Act by competent inspectors within 15 days of their delivery. Appeals shall not suspend implementation.

(3) Appeals in an administrative suit against final decisions issued in supervisory procedure under this Act shall be filed with the principal office of the Administrative Court of the Republic of Slovenia.

(4) The court of first instance and the appeals court shall rule on appeals in administrative suits under this Act with priority.

Article 147

(misdemeanours bodies)

(1) The Agency, information commissioner and the inspectorate responsible for electronic communications shall decide on offences for violations of this Act and regulations issued pursuant thereto as a misdemeanours body in accordance with the law governing misdemeanours, each in the area they supervise.

(2) The misdemeanours body may for offences under this Act issue fines in an amount higher than the minimum prescribed rate for an individual offence.

(3) The official persons managing the procedure of the misdemeanours body and deciding in the procedure shall also be responsible for supervision of Agency officials and inspectors, all under the conditions of and in accordance with the law governing misdemeanours.

XV. ELECTRONIC COMMUNICATIONS COUNCIL OF THE REPUBLIC OF SLOVENIA

Article 148

(Electronic Communications Council)

(1) The Electronic Communications Council of the Republic of Slovenia (hereinafter: council) shall be a body for monitoring and consulting in guiding the development of electronic communications in the Republic of Slovenia.

(2) The Council shall have 11 members appointed for a period of five years by the National Assembly from among various professionals engaged in the field of electronic communications.

(3) Members of the Council shall appoint a president (hereinafter: council president) and deputy president from among their number.

(4) Members of the council may not be:

1. members of the management of political parties,
2. deputies in the National Assembly,
3. state officials or officials of self-governing local communities,
4. public servants in state bodies,
5. persons employed by operators or members of the supervisory or management board of organisations performing activities in fields regulated by the Agency, or who hold equity stakes in organisations performing activities directly subject to regulation by the Agency, or in organisations with equity stakes in such organisations.
6. persons whose spouse, unmarried partner or partner under the law governing same-sex partnerships, or direct relation up to and including the second branch, is a member of the supervisory or management board of an organisation performing activities in fields regulated by the Agency, or holds equity stakes in organisations performing activities directly subject to regulation by the Agency, or in organisations with equity stakes in such organisations.

(5) Council members shall have the right to reimbursement of costs and to remuneration for their work. The National Assembly shall define the level of remuneration. Assets, working conditions and information for the Council shall be provided by the Agency.

Article 149

(operation of the Council)

(1) The Council shall adopt its standing orders.

(2) The Council must meet in session at least twice per year. Sessions shall be called if the director of the Agency requests or at least four members request a session in writing. The president of the Council may call a session at any time.

(3) The director of the Agency or his officials and the minister or state official responsible for electronic communications may attend Council sessions.

(4) A session of the Council shall be quorate if more than half of the members are present. Decisions shall be adopted by simple majority of members present. In the event of an inconclusive voting outcome, the proposal shall be rejected.

Article 150

(tasks of the council)

(1) The Council shall issue opinions, recommendations and proposals regarding matters in the area of electronic communications and regarding the application of the provisions of this Act and secondary legislation issued pursuant thereto, and shall monitor the operation of the Agency.

(2) The Council may request information, except for personal data, from the Agency, state bodies and other actors in the field of electronic communications.

(3) The Agency shall publish opinions, recommendations and proposals from the first paragraph of this Article on its website.

XVI. PENALTY PROVISIONS

Article 151

(misdemeanours)

(1) A fine of between SIT 7,000,000 and SIT 20,000,000 shall be imposed for misdemeanours on a legal entity that:

1. (deleted);
2. fails to provide electronic communications networks or services in a legally independent company or to keep separate accounts for activities associated with the provision or ensuring of electronic communications services or networks (Article 10);
3. fails to provide universal service as required by a decision of the Agency (third paragraph of Article 13);
4. fails to comply with the obligations imposed relating to ensuring transparency (Article 23);
5. fails to comply with the obligations imposed relating to ensuring equal treatment (Article 24);
6. fails to comply with the obligations imposed relating to ensuring accounting separation (Article 25);
7. fails to comply with the requirements relating to permitting operator access to and use of specific network facilities (Article 26);
8. fails to comply with the obligations imposed relating to price control or cost accounting (Article 27);
9. fails to comply with the obligations imposed relating to the regulation of services (Article 28);
10. fails to comply with the obligations imposed relating to ensuring the minimum set of leased lines (Article 29);

11. fails to comply with the obligations imposed relating to ensuring selection or pre-selection of public communications service provider (Article 30);
 12. uses radio frequencies without a valid decision on the allocation of radio frequencies (first paragraph of Article 35);
 13. uses numbering elements without a valid decision on the allocation of numbering elements (Article 60);
 - 13a. where technically feasible fails to provide the competent body with information on calling number and location (second paragraph of Article 72);
 14. fails to provide data to the body responsible for geodesic affairs in accordance with the fourth paragraph of Article 83;
 15. undertakes surveillance or interception of communications in instances not explicitly permitted by this Act (fifth paragraph of Article 103);
 16. fails to provide retention for other operators if instructed to do so by decision (third paragraph of Article 107a);
 17. (deleted);
 18. (deleted);
 19. (deleted);
 20. hinders Agency officials, the information commissioner of inspectors in the performance of supervisory tasks (Articles 141 to 144).
- (2) A fine of between SIT 500,000 and SIT 1,000,000 shall be imposed on a sole trader or the responsible person of a sole trader, or the responsible person of a legal entity who commits a misdemeanour from the previous paragraph.

Article 152

(misdemeanours)

(1) A fine of between SIT 5,000,000 and SIT 20,000,000 shall be imposed for misdemeanours on a legal entity if:

1. it fails to inform the Agency prior to the commencement, alteration or cessation of provision of public communications networks or services (first and eight paragraphs of Article 5);
2. it fails to implement a decision of the Agency (second paragraph of Article 8);
- 2a. it fails to exercise rights of joint use in accordance with the third paragraph of Article 8;
3. it fails to negotiate on interconnection (first paragraph of Article 9);
4. it fails to protect the confidentiality of data (third paragraph of Article 9);
5. it fails to implement a decision of the Agency (fifth paragraph of Article 9);
6. it provides a comprehensive directory or comprehensive directory enquiry service and discriminates in the treatment of data obtained from different providers of publicly available telephone services (fourth paragraph of Article 12);

7. it fails to set equal prices throughout the territory of the Republic of Slovenia for services provided as universal services (second paragraph of Article 14);
8. it fails to determine prices and general conditions in accordance with the fourth paragraph of Article 14;
9. it fails to respect a decision of the Agency (third and fifth paragraphs of Article 14);
10. the measured values of quality parameters for a universal service it provides are lower than the limit values at least three times in succession (seventh paragraph of Article 15);
11. it fails to pay its contributions to the universal service provider within the interval and in the amount laid down by decision of the Agency (third paragraph of Article 17);
12. it fails within the interval stipulated by this Act to inform the Agency of revenues from the provision of public communications networks and/or services (fourth paragraph of Article 17);
13. it hinders the Agency in reviewing data and estimating revenues (fifth paragraph of Article 17);
- 13a. it fails to operate in accordance with the decision on the allocation of radio frequencies (Articles 48 and 49);
14. it is the holder of a decision on the allocation of radio frequencies and transfers the right to use such radio frequencies without the prior consent of the Agency (Article 52);
15. it allocates on the basis of a lawful transaction numbers allocated for use by service providers, and in so doing charges more than actual costs (seventh paragraph of Article 62);
16. it is the holder of a decision on the allocation of numbering elements and transfers the right to use such numbering elements without the prior consent of the Agency (first paragraph of Article 66);
17. it fails to enable number portability for its subscribers (first paragraph of Article 71);
18. it charges a subscriber for the porting of a number to another operator in contravention of the third paragraph of Article 71;
19. the prices for interconnections are not cost oriented (fourth paragraph of Article 71);
20. it fails to enable its end users to call emergency call numbers free of charge (first paragraph of Article 72);
21. in accordance with regulations it fails to publish transparent information on valid prices and tariffs and on general conditions of access to and use of public telephone services (Article 84);
22. it fails to inform users and the Agency in accordance with the second paragraph of Article 93;

23. it restricts access to its services or disconnects a user and terminates the subscriber contract for reasons not stipulated in its general conditions (first paragraph of Article 94);
24. the measure implemented is not stipulated in the general conditions, is disproportionate to the breaches, or is discriminatory (first paragraph of Article 94);
25. it fails to warn a user in accordance with the second paragraph of Article 94;
26. it implements a measure from the third paragraph of Article 94 due to non-payment of bills without prior notification;
27. it implements a measure even though the subscriber has acted in accordance with the fourth paragraph of Article 94;
28. it fails to disconnect a user only from the unpaid or underpaid service even though such disconnection is technically feasible (fifth paragraph of Article 94);
29. it fails to adopt appropriate technical and organisational measures in the event of breakdown of the network, war or state of emergency and natural and other disasters, or fails to implement such measures for the duration of the circumstances that led to their adoption, unless prevented from so doing by force majeure (first paragraph of Article 96);
30. it fails to provide uninterrupted access to and use of emergency call numbers (second paragraph of Article 96);
31. it fails adjust its network so as to enable the priority function (first paragraph of Article 97);
32. (deleted);
33. it fails in instances of war, states of emergency, natural and other disasters, or catastrophic network breakdown to implement other measures and/or restrictions or interruption of operation in accordance with a Government resolution (third paragraph of Article 97);
34. it fails to stipulate by resolution those of its employees who must during strikes enable uninterrupted provision of universal service and/or compliance with obligations of the operator in the event of states of emergency (Article 98);
35. it fails to adopt technical and organisational measures in a manner that ensures the security of its network and/or services (first paragraph of Article 102);
36. it fails to adopt such measures as would ensure a level of security and protection proportionate to the envisaged risk and costs and in accordance with technical and technological development (second paragraph of Article 102);
37. it fails to warn users of special risks to the security of the network or service immediately on learning of the risk, or fails to inform them of all possible means to eliminate the risk and the probable costs, or fails to provide the user with rapid and effective access to protective measures (third paragraph of Article 102);

38. it fails to protect the confidentiality of electronic communications in accordance with the second paragraph of Article 103;
39. it acquires for itself or for another party information on the contents, facts and circumstances of transmitted messages in excess of the minimum necessary extent essential for the provision of specific electronic services, or fails to use such information solely for the provision of such services and compliance with contractual undertakings relating thereto (third paragraph of Article 103);
40. it fails to inform users in accordance with the fourth paragraph of Article 103;
41. it fails in a clear and intelligible manner to inform users of the controller and purpose of processing data, and at the same time fails to offer the possibility of refusing or consenting to such processing (eighth paragraph of Article 103);
42. it fails to erase or make anonymous traffic data after termination of the connection (first paragraph of Article 104);
43. it fails to obtain the prior consent of the subscriber and/or user in accordance with the third paragraph of Article 104;
44. persons not under its supervision process traffic data (fifth paragraph of Article 104);
45. it fails to act in accordance with the sixth paragraph of Article 104;
46. it fails to process location data in accordance with the first paragraph of Article 106;
47. it violates users' or subscribers' rights to temporarily refuse processing of data from the third paragraph of Article 106;
48. persons not under its supervision process location data (fourth paragraph of Article 106);
- 48a. it fails to provide at its own expense appropriate equipment and suitable interfaces (first paragraph of Article 107);
- 48b. it fails to commence lawful interception of communication on receipt of a copy of a court order (second paragraph of Article 107);
- 48c. it fails to undertake lawful interception in the manner, extent and duration stipulated in the copy of the order (fourth paragraph of Article 107);
- 48d. it fails to ensure permanent registration of interception or fails to protect data in accordance with the designated level of secrecy, or as secret data of "CONFIDENTIAL" secrecy level (fifth paragraph of Article 107);
- 48e. it retains data for a shorter period than stipulated by law (fourth paragraph of Article 107a);
- 48f. it fails to destroy retained data after the expiry of the retention period or destroys data to which access has been ordered (sixth paragraph of Article 107a);

- 48g. it fails to provide data storage to the extent stipulated by law (Article 107b);
- 48h. it fails to protect stored data (first paragraph of Article 107c);
- 48i. It reviews, processes or otherwise uses retained data in contravention of the law (second paragraph of Article 107c);
- 48j. it fails to ensure equal quality, security or protection of retained data as for data in the network (third paragraph of Article 107c);
- 48k. it fails to supply retained data in the manner and to the extent stipulated in the copy of the order (first and third paragraphs of Article 107d);
- 48l. it fails to ensure permanent registration of supplied retained data, or fails to protect the data in accordance with the designated level of security or as a secret of secrecy level "CONFIDENTIAL" (fourth paragraph of Article 107d);
49. it uses the electronic address of a customer for direct marketing even though the buyer has refused such direct marketing (second paragraph of Article 109);
50. it uses electronic communications for direct marketing without the consent of the subscriber (first and third paragraphs of Article 109);
51. it uses a false identity or false address in direct marketing with the use of electronic communications (fourth paragraph of Article 109);
52. it fails on the basis of a decision of the Agency to ensure access to application programme interfaces or electronic programme guides, or fails to so do under fair, reasonable and non-discriminatory conditions (third paragraph of Article 113);
53. it fails to respect the prescribed requirements for interoperability of digital interactive television services and digital television equipment used by consumers (fourth paragraph of Article 113);
54. its conditional access systems for digital television or radio services fail to operate in accordance with the first paragraph of Article 114;
55. it fails to ensure technical services under fair, reasonable and non-discriminatory conditions (second paragraph of Article 114);
56. it fails to keep accounts for the provision of conditional access services separate from other activities (third paragraph of Article 114);
57. it fails to grant to manufacturers of consumer equipment industrial property rights for conditional access products and systems under fair and non-discriminatory conditions (fourth paragraph of Article 114);
58. through any condition it prevents a manufacturer from including in the same product common interfaces enabling connection to other access systems or elements specific to another access system (fourth paragraph of Article 114).

59. it fails to provide the requested data to the Agency in accordance with Article 126.
(2) A fine of between SIT 500,000 and SIT 1,000,000 shall be imposed on a sole trader or the responsible person of a sole trader, or the responsible person of a legal entity who commits a misdemeanour from the previous paragraph.

Article 153

(misdemeanours)

(1) A fine of between SIT 2,000,000 and SIT 5,000,000 shall be imposed for misdemeanours on a legal entity if:

1. (deleted);
2. it fails to supply all data on legal transactions relating to allocated numbers to the Agency (seventh paragraph of Article 62);
3. it fails to act in accordance with the decision on the allocation of numbers (Articles 63 and 64);
4. it fails to ensure that users from other European Union member states are able to call non-geographic numbers in the Republic of Slovenia where technically and economically feasible (first paragraph of Article 73);
5. (deleted);

6. it operates in contravention of the second paragraph of Article 77;

7. a subscriber contract does not contain all the prescribed elements (first and second paragraphs of Article 85);

8. it fails to inform its subscribers in accordance with the third paragraph of Article 85;

9. it fails to make available a level of itemised billing that enables verification and control of use and the sum charged (first paragraph of Article 91);

10. it fails to offer subscribers the basic level of itemised billing free of charge (second paragraph of Article 91);

11. it fails to respect subscriber's requests (second paragraph of Article 91);

12. the basic level of itemised billing does not contain the statutory elements (third and fourth paragraphs of Article 91);

13. it charges more than actual costs for additional itemised billing (sixth paragraph of Article 91);

14. it fails to stipulate in its general conditions the traffic data to be stored or processed or the duration thereof, and/or to declare that it shall handle them in accordance with the law governing the protection of personal data (fourth paragraph of Article 104);

15. it processes traffic data for marketing or the provision of value added services without prior consent of the user (third paragraph of Article 104);

16. it fails to ensure the possibilities laid down in the first to seventh paragraphs inclusive of Article 105;

17. it fails to ensure the possibility laid down in the seventh paragraph of Article 105 in accordance with the seventh and eighth paragraphs of Article 105;

18. it fails in its general conditions to publish the possibility of presentation and prevention of calling, called and connected line identification (ninth paragraph of Article 105);

19. it fails to inform users prior to their consent of:

- the type of location data to be processed;

- the purpose and duration of processing of location data;

- the type of location data to be transmitted to third parties (second paragraph of Article 106);

20. it fails to offer subscribers or users the possibility, using a simple means and free of charge, of temporarily refusing the processing of location data (third paragraph of Article 106);

21. (deleted);

22. it uses data collected in contravention of the second paragraph of Article 110;

23. it fails to inform subscribers in advance and free of charge of the purpose and further usage of a printed or electronic subscriber directory containing their personal data (first paragraph of Article 111);

24. it fails to provide subscribers with the opportunity to decide (second paragraph of Article 111);

25. refusal to be included in a public subscriber directory and verifying, altering or erasing personal data is not free of charge (third paragraph of Article 111);

26. it fails to plan electronic communications networks intended for the distribution of digital television services so as to be appropriate for the distribution of high-definition television services and programmes (first paragraph of Article 113);

27. it fails to maintain high-definition format (second paragraph of Article 113).

(2) A fine of between SIT 200,000 and SIT 500,000 shall be imposed on a sole trader or the responsible person of a sole trader, or the responsible person of a legal entity who commits a misdemeanour from the previous paragraph.

Article 154

(misdemeanours)

(1) A fine of between SIT 500,000 and SIT 2,000,000 shall be imposed for misdemeanours on a legal entity if:

1. it fails within the statutory interval to inform the Agency of changes to the data defined by law (fourth paragraph of Article 5);
 - 1a. it fails within the statutory interval to provide the Agency with data on annual revenues from the provision of public communications networks and/or services (third paragraph of Article 6);
 2. it fails to publish up-to-date information on the quality of universal service and/or to submit data and all changes thereto to the Agency (fourth paragraph of Article 15);
 3. (deleted);
 4. it fails to report changes to data within the interval (fourth paragraph of Article 48 and second paragraph of Article 63);
 5. (deleted);
 6. (deleted);
 7. it fails to publish or submit to the Agency adequate and up-to-date information on the quality of its services (Article 86);
 8. it fails to make available to its users tone dialling and calling line identification, where technically feasible and economically viable (Article 87);
 9. it refuses to connect radio or telecommunications terminal equipment in contravention of the provisions of the first paragraph of Article 88);
 10. it connects to a public communications network radio or telecommunications terminal equipment in contravention of the provisions of the second paragraph of Article 88;
 11. it fails to enable all its subscribers to have an entry in a comprehensive directory provided within the framework of universal services (first paragraph of Article 88);
 12. it fails to make available under fair, objective, cost-oriented and non-discriminatory conditions relevant data for the purposes of providing publicly available directories or directory enquiry services (second paragraph of Article 89);
 13. it fails to provide access to all users to the comprehensive directory enquiry service or to relevant directory enquiry services in other countries (third paragraph of Article 89);
 14. it fails to enable access to operator assistance (Article 90);
 15. it fails in the provision of electronic communications services enabling automatic call forwarding, to enable subscribers, for an individual call or connection, free of charge and using a simple means, to stop automatic call forwarding by a third party to the subscriber's terminal (first paragraph of Article 108).
- (2) A fine of between SIT 100,000 and SIT 500,000 shall be imposed on a sole trader or the responsible person of a sole trader, or the responsible person of a legal entity who commits a misdemeanour from the previous paragraph.

Article 155

(misdemeanours)

(1) A fine of between SIT 200,000 and SIT 300,000 shall be imposed on an individual who commits a misdemeanour from Articles 151, 152 or 153 of this Act.

(2) A fine of between SIT 100,000 and SIT 300,000 shall be imposed on an individual who commits a misdemeanour from Article 154 of this Act.

The Electronic Communications Act – ZEKom (*Official Gazette* RS 43/04) contains the following transitional and final provisions:

XVII. TRANSITIONAL PROVISIONS

Article 156

(existing licences)

(1) Operators who were issued licences in accordance with the provisions of the Telecommunications Act (*Official Gazette* RS 30/01 and 110/02 – ZGO-1) shall be deemed on the date of entry into force of this Act to have informed the Agency in accordance with the provisions of Article 5 of this Act.

(2) Operators from the previous paragraph shall continue to undertake their activities in accordance with this Act. The Agency shall within three months of the entry into force of this Act send confirmation from the fifth paragraph of Article 5 of this Act.

(3) Licences issued in accordance with the provisions of the Telecommunications Act shall cease to be valid on the date of entry into force of this Act.

(4) In addition to the confirmation from the second paragraph of this Article, the Agency shall also issue to operators who were issued licences in accordance with Articles 29, 44 and 149 of the Telecommunications Act decisions on the allocation of radio frequencies under this Act, which shall summarise the provisions of the licence, insofar as they are not in contravention of this Act.

(5) Irrespective of the provisions of the third paragraph of this Article, licences issued in accordance with Articles 29, 44 and 149 of the Telecommunications Act shall cease to be valid on the issuing of decisions on the allocation of radio frequencies.

Article 157

(existing notifications)

(1) The written notification from the first paragraph of Article 27 of the Telecommunications Act shall be deemed to be notification from Article 5 of this Act.

(2) Natural persons and legal entities that have informed the Agency in writing pursuant to the first paragraph of Article 27 of the Telecommunications Act shall continue to perform their activities to the extent, in the manner and under the conditions laid down in this Act.

(3) The Agency shall within three months of the entry into force of this Act send to operators from the previous paragraph the confirmation from the fifth paragraph of Article 5 of this Act, or shall call on such operators to supplement the required data and evidence in terms of the sixth paragraph of Article 5 of this Act.

Article 158

(procedures)

Procedures for the granting of licences pursuant to the second paragraph of Article 27 of the Telecommunications Act that have not been completed on the entry into force of this Act shall be suspended by resolution of the Agency and may be reinitiated pursuant to this Act.

Article 159

(existing decision on universal service provision)

(1) The Agency shall be obliged within three months of the entry into force of this Act to commence the procedure for determination of universal service providers under this Act.

(2) The current universal service provider shall continue to provide universal service under the conditions of the existing decision issued pursuant to the Telecommunications Act until it is revoked by a decision on universal service provision issued pursuant to this Act.

Article 160

(decisions on allocation)

(1) Decisions on the allocation of radio frequencies issued pursuant to the Telecommunications Act shall apply until their expiry, and may be extended under the procedure laid down by this Act.

(2) Decisions on the allocation of numbers issued pursuant to the Telecommunications Act shall remain valid and may be amended, be revoked or expire under the conditions and in the manner laid down by this Act.

Article 161

(operators with significant market power)

Decisions on significant market power issued pursuant to the Telecommunications Act shall remain in force at most until their expiry, and they may be amended, be revoked or expire under the conditions and in the manner laid down by this Act.

Article 162

(deadline for adoption of plan of measures)

Operators providing access to the public telephone network and the use of publicly available telephone services at a fixed location shall be obliged to adopt the plan of measures from the first paragraph of Article 96 of this Act within six months of its entry into force.

Article 163

(deadline for ensuring the priority function)

Operators providing public telephone networks shall be obliged to adjust their networks in accordance with the first paragraph of Article 97 of this Act within one year of the entry into force of this Act.

Article 164

– account taken of ZEKom (existing networks on leased land)

(1) Owners of land on which electronic communications networks run, are built or are installed, shall be obliged to permit continued use of their land for the purposes of construction or installation, maintenance and operation of electronic communications networks if they or their legal antecedents expressed written agreement for such use.

(2) The rights of operators arising from the obligation of owners of land from the previous paragraph shall include the entitlements contained in right of use under this Act, and must be exercised in accordance with the provisions of Article 77 of this Act.

(3) In instances of existing electronic communications networks in public roads, operators shall be obliged to act in accordance with the conditions of use of the network as stipulated by the consents for its installation issued pursuant to the law governing public roads.

(4) If the construction of public roads and associated structures requires the relocation and protection of networks from the previous paragraph, operators shall be obliged to submit the consent from the previous paragraph, otherwise they shall bear all the costs of relocation and protection of this network.

Article 165

(payments to the Agency)

The provisions of Articles 6, 56, 70 and 128 with regard to payments to the Agency shall apply from 1 January 2005.

Article 166

(inspectorate)

On the entry into force of this Act, the inspectorate responsible for telecommunications shall continue to work as the inspectorate responsible for electronic communications.

Article 167

(Agency)

(1) The Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia established pursuant to the Telecommunications Act and the resolution establishing the Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia (*Official Gazette* RS 60/01 and 52/02) shall continue to work as the Agency under this Act.

(2) The Government shall within three months of the entry into force of this Act adopt a resolution amending the resolution establishing the Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia (*Official Gazette* RS 60/01 and 52/02).

(3) The director and deputies of the Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia shall continue until the end of their mandates to work as the director and deputies under this Act.

(4) The director of the Agency shall issue a statute in accordance with this Act within four months of the entry into force of this Act.

(5) The Agency shall be obliged to complete the first market analysis pursuant to Article 21 of this Act no later than within nine months of the entry into force of this Act.

Article 168

(council)

(1) The Telecommunications Council shall continue to work as the council under this Act. The name of the Telecommunications Council shall be amended to read “the Electronic Communications Council”.

(2) The National Assembly shall within three months of the entry into force of this Act adopt a decree amending the decree on the establishment of the Telecommunications Council (*Official Gazette* RS 56/01 and 13/03). Members of the Telecommunications Council shall continue to work as members of the Electronic Communications Council under this Act until the expiry of their mandates.

Article 169

(transitional issuing of monetary penalties and application of provisions on misdemeanours bodies)

(1) Until the entry into use of the Misdemeanours Act (*Official Gazette* RS 7/03) fines prescribed in this Act shall be issued as monetary penalties within the limits stipulated by this Act.

(2) The provisions of Article 147 (misdemeanours bodies) shall enter into application on the date of entry into use of the Misdemeanours Act.

(3) Fines shall start to be imposed on responsible persons of sole traders on the date of entry into use of the Misdemeanours Act.

Article 170

(validity of regulations)

(1) The deadline for the issuing of secondary legislation and general acts of the Agency that are compulsory under this Act shall be at most six months from the entry into force of this Act. Until the issuing of relevant secondary legislation and general acts pursuant to this Act, the following regulations issued pursuant to the Telecommunications Act (*Official Gazette* RS 30/01 and 110/02 – ZGO-1) and to the Telecommunications Act (*Official Gazette* RS 35/97, 45/97 – CC ruling, 13/98, 59/99 – CC ruling, and 36/2000 – CC ruling) shall remain in force unless they contravene this Act:

1. General act on the value of points for determination of the level of certain fees in the area of telecommunications (*Official Gazette* RS 3/04),

2. General act on the procedure and criteria for determination of operator with significant market power (*Official Gazette* RS 97/03),

3. list of standards the use of which creates doubt about conformity of a product with the regulations on electromagnetic compatibility (*Official Gazette* RS 77/03)

4. list of standards the use of which creates doubt about conformity of a product with the regulations on radio and terminal equipment (*Official Gazette* RS 77/03),

5. Rules on the equipment and interfaces for lawful interception of telecommunications (*Official Gazette* RS 73/03),

6. general act on the joint use of parts of the UMTS/IMT network – 2000 (*Official Gazette* RS 70/03),

7. general act on operator selection and pre-selection (*Official Gazette* RS 45/03),

8. general act on the register of the Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia (*Official Gazette* RS 111/02),

9. Rules on the method for providing and billing special telecommunications services (*Official Gazette* RS 88/02),

10. Rules on the collection and use of data on the development of the telecommunications market (*Official Gazette* RS 86/02),
 11. Decree on structures, facilities and installations comprising the secondary telecommunications network (*Official Gazette* RS 84/02),
 12. Statute of the Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia (*Official Gazette* RS 77/02),
 13. General act on the plan of use of radio frequencies (*Official Gazette* RS 32/02),
 14. Decree on the methodology for formation of prices of public telecommunications services and networks (*Official Gazette* RS 25/02),
 15. general act on fixed public telecommunications networks and services (*Official Gazette* RS 18/02),
 16. general act on itemised billing (*Official Gazette* RS 18/02),
 17. general act on shared use of structures and installations (*Official Gazette* RS 11/02),
 18. Rules on the numbering plan (*Official Gazette* RS 2/02 and 40/03),
 19. Rules on the method of calculation of specific fees in the area of telecommunications (*Official Gazette* RS 2/02 and 35/02),
 20. Decree on the plan of allocation of radiofrequency bands (*Official Gazette* RS 98/01),
 21. Decree on radio frequencies for which no decision on the allocation of radio frequencies is required (*Official Gazette* RS 91/01),
 22. Rules on the annulment of regulations in the telecommunications sector (*Official Gazette* RS 85/01),
 23. Rules on electromagnetic compatibility (EMC) (*Official Gazette* RS 84/01 and 32/02),
 24. Rules on universal service quality (*Official Gazette* RS 82/01),
 25. Instructions for the implementation of telecommunications traffic monitoring (*Official Gazette* RS 78/01),
 26. Rules on radio and telecommunications terminal equipment (R&TTE) (*Official Gazette* RS 77/01 and 40/03),
 27. Resolution on the foundation of the Telecommunications, Broadcasting and Postal Agency of the Republic of Slovenia (*Official Gazette* RS 60/01 and 52/02),
 28. Rules on the contents of applications and the contents of decisions on the allocation of radio frequencies (*Official Gazette* RS 60/01),
 29. Rules on the conditions for the issuing of decisions on the allocation of numbers (*Official Gazette* RS 60/01),
 30. Rules on the conditions for the issuing of licences to provide fixed public telephone services (*Official Gazette* RS 60/01),
 31. Rules on the conditions for the issuing of licences to provide mobile public radio services (*Official Gazette* RS 60/01),
 32. Rules on mandatory components and other elements of general conditions for the provision of services of fixed public telephone networks and mobile public radio networks (*Official Gazette* RS 77/01),
 33. Rules on the types of amateur radio stations and technical conditions for their use (*Official Gazette* RS 41/98).
- (2) The provisions of the law governing public procurement shall not apply to procurement awarded by operators.

XVIII. FINAL PROVISIONS

Article 171

(cessation of validity)

(1) The Telecommunications Act (*Official Gazette* RS 30/01 and 110/02 – ZGO-1) shall cease to apply on the date of entry into force of this Act.

(2) Irrespective of the provisions of the previous paragraph of this Article, the provisions of Section IX (radio and terminal equipment) and Section X (electromagnetic compatibility EMC) of the Telecommunications Act, and of Section XVII (supervision) of the Telecommunications Act in the part relating to the aforementioned sections, shall apply until the adoption of relevant regulations issued by the minister responsible for the economy, within six months of the entry into force of this Act.

(3) Irrespective of the provisions of the first paragraph of this Article the provisions of Article 35 except for the fifth paragraph thereof, and of Articles 50, 104, 109, 115, 116 and of the sixth paragraph of Article 117 of the Telecommunications Act shall apply until 31 December 2004.

(4) On the date of entry into force the following shall cease to apply:

1. Decree on the award of concessions for the use of the radiofrequency spectrum for GSM mobile telephony services (*Official Gazette* RS 49/97 and 24/2000),
2. Decree on the award of concessions for the use of the radiofrequency spectrum for the provision of satellite personal communications services (*Official Gazette* RS 68/99),
3. Decree on the award of concessions for the use of the radiofrequency spectrum for the provision of NMT services (*Official Gazette* RS 53/99),
4. Decree on the award of concessions for the use of the radiofrequency spectrum for the provision of personal call services in the ERMES system (*Official Gazette* RS 53/99),
5. Decree on the award of concessions for the use of the radiofrequency spectrum on 1800 MHz for the provision of mobile telephony services (*Official Gazette* RS 79/99 in 72/00).

Article 172

(entry into force of the Act)

This Act shall enter into force on 1 May 2004

The Act amending and supplementing the Electronic Communications Act – ZEKom-A (*Official Gazette* RS 129/06) contains the following transitional and final provisions:

TRANSITIONAL AND FINAL PROVISIONS

Article 121

(1) The Agency shall within six months of the entry into force of this Act issue or harmonise general acts within its competence under this Act.

(2) Until the issuing of the general act from Article 14 of this Act, the Rules on universal service quality (*Official Gazette* RS 110/04) shall remain in force.

(3) Until the issuing of the general act defining the numbering plan, the Rules on the numbering plan (*Official Gazette* RS 57/05) shall remain in force.

(4) Decisions on the use of numbers issued pursuant to the Electronic Communications Act (*Official Gazette* RS 43/04 and 86/04 – ZVOP-1) shall be deemed decisions on the use of numbering elements under this Act.

(5) Operators shall be obliged within two years of the entry into force of this Act to ensure that the priority function transfers across networks.

(6) The provisions of Article 92 of this Act relating to data retention in telephone services shall enter into use on 15 September 2007, while the provisions relating to the retention of data on Internet access, electronic mail and Internet telephony shall enter into use on 15 March 2009.

Article 122

This Act shall enter into force on the fifteenth day following its publication in the *Official Gazette* of the Republic of Slovenia.